



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

9.4.2

JUNE 23, 2025

EFFECTIVE DATE

(06-23-2025)

PURPOSE

- (1) This transmits revised IRM 9.4.2, Sources of Information.

MATERIAL CHANGES

- (1) IRM 9.4.2 revised to comply with Executive Orders and Office of Personnel Management (OPM) memorandums regarding diversity, equity, inclusion (DEI) gender, or related subject matter.
- (2) IRM 9.4.2.5.9 (2) term gender updated to sex.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 9.4.2, Sources of Information dated July 18, 2024.

AUDIENCE

Criminal Investigation (CI)

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9.4.2

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9.4.2.1
(07-18-2024)
**Program Scope and
Objectives**

- (1) Purpose: This IRM provides IRS guidance on processes and procedures for acquiring Sources of Information.
- (2) Audience: All Criminal Investigation (CI) employees.
- (3) Policy Owners: Director, Global Operations Policy & Support and Director, Advanced Analytics & Innovation.
- (4) Program Owners: Director, Global Operations Policy & Support and Director, Advanced Analytics & Innovation.
- (5) Primary Stake Owners: Director, International Operations, Director, Global Financial Crimes & Policy, Director, Asset Recovery & Investigative Services, and Director, Special Investigative Techniques, and Director, Advanced Analytics & Innovation.
- (6) Contact Information: To make changes to this IRM section email CIHQIRM@ci.irs.gov.
- (7) Goal: To provide directive on the different sources available to gather information for an investigation.

9.4.2.1.1
(03-18-2024)
Background

- (1) Compliance with the laws which the IRS is authorized and directed to enforce cannot always be determined solely by reference to the information on returns and documents filed with IRS. Therefore, the IRS must obtain information from outside sources for the effective administration of the tax laws, (see IRM 1.2.1, Servicewide Policies and Authorities, Servicewide Policy Statements (Policy Statement 1–1, Mission of the Service)).
- (2) The term **relevant investigative information** means documents, statements, facts, testimony, and other data which reasonably may be expected, either singularly or cumulatively, to indicate a potential violation of Federal law. Documents, statements, facts, testimony or other data which relate to the personal habits of a person may be gathered if it is **directly relevant investigative information**.

Note: Information relating to any expenditure of money, or for which an expenditure of money would normally be expected, is almost always directly related to an income tax investigation. If the information is not “directly relevant investigative information,” but is commingled with other information in the same document, it may be retained.

- (3) Under no other circumstances will information on the personal habits of a person be gathered, developed, or retained.
- (4) Depending upon the nature of the investigation, nearly every governmental agency, business, financial entity, school, customer, client, supplier, utility company, neighbor, friend, relative, classmate, or associate of any kind is a potential source of information.
- (5) This section relates to the different sources available to gather information during the course of an investigation. Some of the sources of information are:
 - a. Government records,
 - b. Business, financial, professional, and educational records,
 - c. Investigative databases,

d. Informants.

- (6) In selecting which sources to be contacted, it is important to balance the likelihood of obtaining directly relevant investigative information with the potential for wasting valuable time and effort.
- (7) The special agent must also be mindful of the disclosure provisions of 26 USC 6103 in determining how best to obtain necessary information, (see IRM 9.3.1, Disclosure).

9.4.2.1.2
(03-18-2024)
Authority

- (1) See IRM 9.1.2, Authority; subsection 9.4.2.4 paragraph (4) below; 26 USC 6103; IRM 9.3.1, Disclosure; and IRM 1.2.1, Servicewide Policies and Authorities, Servicewide Policy Statements (Policy Statement 1–1, Mission of the Service).

9.4.2.1.3
(07-18-2024)
Roles and Responsibilities

- (1) The Director, Global Operations Policy & Support and Director, Advanced Analytics & Innovation are responsible for developing, maintaining, and overseeing this IRM and ensuring compliance with current policies and procedures.

9.4.2.1.4
(07-18-2024)
Program Management and Review

- (1) The Director, Global Operations Policy & Support and Director, Advanced Analytics & Innovation will:
 - a. Review the IRM annually.
 - b. Update the IRM when content is no longer accurate and reliable to ensure employees correctly complete their work assignments and for consistent administration of the tax laws.
 - c. Incorporate all permanent interim content into the next revision of the IRM section prior to the expiration date.

9.4.2.1.5
(07-18-2024)
Program Controls

- (1) The Director, Global Operations Policy & Support and Director, Advanced Analytics & Innovation will review the instructions and guidelines relating procedural, operational, and editorial changes.

9.4.2.1.6
(03-18-2024)
Acronyms

- (1) The table lists commonly used acronyms and their definitions:

Acronym	Definition
ACS	Automated Case Support System
ARIS	Asset Recovery & Investigative Services
ATF	Alcohol, Tobacco and Firearms
BGED	Census Bureau Enumeration District
BOP	Bureau of Prisons
BSA	Bank Secrecy Act
CBP	U.S. Customs and Border Patrol
CCIPS	Computer Crime and Intellectual Property Section
CI	Confidential Informant

Acronym	Definition
ACS	Automated Case Support System
ARIS	Asset Recovery & Investigative Services
ATF	Alcohol, Tobacco and Firearms
CIMIS	Criminal Investigation Management Information System
CIS	Computer Investigative Specialist
CMIR	Currency or Monetary Instrument Report
CT Counsel	Criminal Tax Counsel
CTRC	Currency Transaction Report by Casinos
CTC	Computer and Telecommunications Coordinators
CTR	Currency Transaction Report
CW	Cooperating Witness
DOJ	Department of Justice
FAA	Federal Aviation Administration
FBAR	Foreign Bank and Financial Accounts Report
FBI	Federal Bureau of Investigation
FinCEN	Financial Crimes Enforcement Network
FOIA	Freedom of Information Act
HQ	Headquarters
ICE	Immigration and Customs Enforcement
IDRS	Integrated Data Retrieval System
INTEL	Intelligence
JTTF	Joint Terrorism Task Force
LB&I	Large Business & International
MLATs	Mutual Legal Assistance Treaties
MOU	Memorandum of Understanding
NCIC	National Crime Information Center
NLETS	National Law Enforcement Telecommunication Systems
OEO	Office of Enforcement Operations
OIA	Office of International Affairs
PAES	Private Aircraft Enforcement System
POA	Power of Attorney

Acronym	Definition
ACS	Automated Case Support System
ARIS	Asset Recovery & Investigative Services
ATF	Alcohol, Tobacco and Firearms
RAC	Resident Agent in Charge
RCN	Report Control Number
RFIS	Refund Fraud & Investigative Support
SAC	Special Agent in Charge
SCIP	Simultaneous Criminal Investigation Programs
SIT	Special Investigative Techniques
SOI	Source of Information
SQIR	Subject Query Internal Revenue
SSA	Supervisory Special Agent
TECS	Treasury Enforcement and Communication System
TIEA	Tax Information Exchange Agreements
TIGTA	Treasury Inspector General for Tax Administration
UPM	Undercover Program Manager
USMS	United States Marshal's Service
WSC	Witness Security Coordinator

9.4.2.1.7
(03-18-2024)

Related Resources

- (1) IRM 4.60.1.2, Specific Exchange of Information Program.
- (2) IRM 9.3.1, Disclosure.
- (3) IRM 9.4.4, Requests for Information.
- (4) IRM 9.4.7, Consensual Monitoring.
- (5) IRM 9.7, Asset Seizure and Forfeiture
- (6) IRM 9.11.1, Fiscal and Budgetary Matters.
- (7) IRM 10.2.15, Physical Security Program, Minimal Protection Standards.
- (8) IRM 11.3, Disclosure of Official Information.
- (9) IRM 25.2, Information and Whistleblower Awards.

- 9.4.2.2
(08-09-2004)
Governmental Sources of Income
- (1) Federal, state, county, and local governments maintain an abundance of official files that may be relevant to a criminal investigation. Governmental records are obtained in a variety of means and most are detailed in IRM 9.4.4, Requests for Information. The IRM 9.4.4, contains a description of records maintained and procedures on obtaining internal records from the IRS along with other Federal agencies and regulatory commissions.
- 9.4.2.3
(08-09-2004)
Business, Financial, Professional, and Educational Records
- (1) Most businesses, organizations, or other entities maintain records concerning their dealings with individuals. These records include financial transactions, personal identification information, degree or licensing information, and an infinite variety of other information of value to criminal financial investigations.
 - (2) Organizations and business entities that may be of special interest in investigations, along with a description of the records they maintain and the procedures to obtain such records, can be found in IRM 9.4.4, Requests for Information.
- 9.4.2.4
(03-18-2024)
Investigative Computer Databases, Networks and Other Electronic Storage Media
- (1) A large number of computer databases are available on the internet to special agents (SA) searching for information concerning their investigations. Netscape's Net Directory, as well as similar search engines on most internet services, provides nationwide name search capability. Databases of alumni associations, professional licenses, society memberships, club memberships, business customers, subscribers to various services, and a vast number of other organizations maintain current lists that allow the general public to contact people with similar interests, or provide assistance to those who are in search of a business or professional relationship. Use of these databases provides a fast and inexpensive means of obtaining a wide variety of useful leads.
 - (2) Field offices have access to Lexis/Nexis, a comprehensive legal reporting service which, for a fee, provides complete and up to the minute information on all published legal decisions in the nation. Furthermore, it contains most of the resources of a law library, with instantaneous access.
 - (3) Electronic information can be obtained by consent, subpoena, or search warrant. Consent searches must be voluntarily given and may be limited in scope. Seek consent from the subject, employer, or other party with authority established by law. Always consider the use of a summons/subpoena for computer information not under the control of the subject. Summons/subpoena computer records as they exist at the time of service of the subpoena. Direct the recipient to make and safeguard a copy of the requested information, even if they intend to contest the subpoena. Subpoena the subject(s) for passwords and encryption keys. A grant of act of production immunity may be required.
 - (4) Statutes impose restrictions and obligations on the SA and any operator of public computer services. Review the following before attempting to obtain evidence from electronic sources:
 - First Amendment to the Constitution,
 - Fourth Amendment to the Constitution,
 - Wiretap Act, 18 USC 2510 and 18 USC 2521,
 - 18 USC 2701 and 18 USC 2711,
 - Privacy Protection Act, 42 USC 2000aa,
 - Federal Rules of Criminal Procedure, Rule 41,
 - Federal Rules of Evidence, Sections 901, 1001, and 1002.

- (5) Obtain additional information to secure evidence from computers and other electronic media from the following sources:
- Internet Investigation Guidelines written by Criminal Investigation,
 - Computer Investigative Specialist (CIS),
 - Department of Justice (DOJ),
 - Internet Investigation Guidelines published by the DOJ,
 - Division Counsel/Associate Chief Counsel (Criminal Tax),
 - Computer and Telecommunications Coordinators (CTCs) at the local US Attorney's Office or Assistant US Attorneys that have received special training in the computer crimes subject area,
 - Tax Division, Department of Justice: Counselor to the Criminal Deputy Assistant Attorney General, at (202) 514-2901 and Fax (202) 514-5479,
 - Computer Crime and Intellectual Property Section (CCIPS), Department of Justice at (202) 514-1026 and fax (202) 514-6113.

9.4.2.4.1
(03-18-2024)

**Treasury Enforcement
and Communication
System (TECS)**

- (1) The TECS is used extensively by the law enforcement community. This subsection discusses the information available on TECS. Items discussed include:
- Description and purpose of TECS,
 - Responsibilities for TECS,
 - Information available from TECS.

9.4.2.4.1.1
(03-18-2024)

**Description and Purpose
of TECS**

- (1) TECS is a computerized information system designed to identify individuals and businesses suspected of, or involved in, violation of Federal law. TECS is also a communications system permitting message transmittal between Treasury law enforcement offices and other Federal, national, state, and local law enforcement agencies. The TECS provides access to the FBI's National Crime Information Center (NCIC) and National Law Enforcement Telecommunication Systems (NLETS) with the capability of communicating directly with state and local enforcement agencies. The NLETS provides direct access to state motor vehicle departments.

9.4.2.4.1.2
(03-18-2024)

**Responsibilities for
TECS**

- (1) The responsibility for TECS lies both in HQ and the field offices. The following subsections provide a brief description of these responsibilities.

9.4.2.4.1.2.1
(03-18-2024)

**Associate Director,
Asset Recovery &
Investigative Services
(ARIS)**

- (1) The Associate Director, ARIS will be responsible for ensuring that all TECS entries meet authorized disclosure criteria.
- (2) All fugitive entries will be made through HQ and all non-fugitive entries will be made through or authorized by the Associate Director, ARIS.
- (3) Headquarters is also responsible for conducting and coordinating periodic training for TECS operators, as well as providing operating instructions, including the TECS Operating Manual, at all locations, and additional instructions as needed.

9.4.2.4.1.2.2

(08-02-2018)

Resident Agent in Charge (RAC), Refund Fraud & Investigative Support (RFIS)

- (1) Each RAC-RFIS will be responsible for:
 - a. Designating TECS users and coordinating their training,
 - b. Performing queries for field offices upon request, and reporting the results upon receipt of a TECS reply (either a HIT or a No Record) by telephone, transmission of the TECS hard-copy reply to the field office, or by attachment of the hard-copy reply to the primary investigation being evaluated.

9.4.2.4.1.2.3

(08-02-2018)

Special Agent in Charge (SAC)

- (1) The SAC in each field office will be responsible for:
 - a. Designating a TECS Systems Control Officer to assist other users and compliance functions in obtaining authorized data,
 - b. Designating TECS users and coordinating their training,
 - c. Disseminating written instructions to field office personnel regarding TECS query requests within the general guidelines as stated in this section,
 - d. Providing HQ with a mailing list for their field office of direct distribution recipients of wanted circulars.

9.4.2.4.2

(03-18-2024)

Information Available From TECS

- (1) All information retrieved from TECS must be stamped OFFICIAL USE ONLY.
- (2) The US Customs FIB Financial Information Database provides information via TECS as follows:
 - a. Form 4789, Currency Transaction Reports (CTR),
 - b. Reports of Foreign Bank and Financial Accounts (FBAR), Treasury Form 90-22.1,
 - c. Form 8362, Currency Transaction Reports by Casinos (CTRC),
 - d. Suspicious Activity Reports (SAR), Form TDF 90-22.47.
- (3) Also available from FIB's Financial Information Database are special computer runs summarizing Currency or Monetary Instrument Report (CMIR) data. Requests for special computer runs must be sent to the IRS Detroit Computing Center. Requests must include:
 - a. The individual or business name,
 - b. Address,
 - c. Identifying number (SSN, EIN, etc.).
- (4) Printouts will only be generated for specific entities where a large volume of filings are applicable or where a search is required utilizing parameters not available for on-line queries.
- (5) Requests for special computer runs summarizing CTR, CTRC, and FBAR data should be made to the IRS Detroit Computing Center, Attn: Criminal Investigation Representative, 985 Michigan Ave., Room 1043, Detroit, MI 48226. Requests should be signed by the SAC, and should include:
 - a. Individual or business name,
 - b. Address,
 - c. Identifying data (SSN, EIN, etc.),
 - d. Zip code or zip code range,
 - e. Field office code.

- 9.4.2.4.2.1
(08-02-2018)
Individual Records
- (1) Individual records available from the TECS database come from the Immigration and Customs Enforcement (ICE), ATF, Treasury Inspector General for Tax Administration (TIGTA), and IRS-CI.
- 9.4.2.4.2.1.1
(08-09-2004)
US Customs and Border Protection (CBP) Service Records
- (1) US Customs and Border Protection Service records include:
- a. Subject records of enforcement interest on persons, vehicles, vessels, aircraft, organizations (including businesses), articles, and firearms.
 - b. Investigation records and enforcement information.
 - c. Private Aircraft Enforcement System (PAES) which identifies tail numbers, owner and pilot of aircraft, as well as aircraft and passenger arrival.
 - d. Vessel and aircraft sightings.
 - e. Land Border Primary and Secondary operations concerning motor vehicles and their passengers entering the United States.
- 9.4.2.4.2.1.2
(08-09-2004)
Bureau of Alcohol, Tobacco, and Firearms Records (ATF)
- (1) ATF records include:
- a. Wanted persons and fugitives,
 - b. Known and suspected violators of laws falling within the jurisdiction of ATF,
 - c. Felons and dishonorably discharged veterans who have requested relief to own firearms and/or explosives under the Gun Control Act of 1968,
 - d. Violent felons,
 - e. Gangs and terrorists.
- 9.4.2.4.2.1.3
(08-09-2004)
Treasury Inspector General, Tax Administration (TIGTA)
- (1) TIGTA records include:
- a. Wanted persons and fugitives,
 - b. Prosecution records,
 - c. Arrests, indictments, and information (including convictions, dismissals, and other dispositions),
 - d. Stolen guns,
 - e. Stolen articles.
- 9.4.2.4.2.1.4
(08-02-2018)
IRS - Criminal Investigation (IRS-CI)
- (1) The IRS-CI records include:
- a. Wanted persons and fugitives,
 - b. Non-resident delinquent taxpayers,
 - c. Entries involved in the Intelligence (INTEL) database concerning questionable refund schemes,
 - d. All investigations included in Criminal Investigation Management Information System (CIMIS).
- (2) Investigations included in the CIMIS are available through TECS via (command code) Subject Query Internal Revenue (SQIR). The purpose of having CIMIS records in TECS is to notify the field offices that another agency or CI office has queried the investigation subject. The CIMIS records input into TECS are not available to other agencies. The database for CIMIS information can be queried by:
- a. Name,
 - b. Social security number,
 - c. Investigation number,
 - d. Alias information (including doing business as a partnership),

e. Related investigation number.

9.4.2.4.2.2
(03-15-2007)
**Report of International
Transportation of
Currency or Monetary
Instruments (CMIR),
Financial Crimes
Enforcement Network
(FinCEN) Form 105**

- (1) The CMIR file contains a record of every individual who has filed a FinCEN Form 105 (formerly Customs Form 4790), Report of International Transportation of CMIR. This form is required to be filed by each person who physically transports, mails, ships, receives, or causes to be physically transported, mailed, shipped, or received currency or other monetary instruments in an aggregate amount exceeding \$10,000 on any one occasion from the United States to any place outside the United States, or into the United States from any place outside the United States. A transfer of funds through normal banking procedures, which does not involve the physical transportation of currency or monetary instruments, is not required to be reported.
- (2) If a TECS query results in a positive response, information contained on the CMIR will be received. If it becomes necessary to obtain a copy or certified copy of the CMIR, a request which includes the Report Control Number (RCN), should be directed to the Director of FinCEN at the Financial Crimes Enforcement Network, Post Office Box 39, Vienna, Virginia 22183. The request should include all available identifying data including:
 - a. Name,
 - b. Social security number,
 - c. Report control number,
 - d. Date of birth.
- (3) For a certified copy of the CMIR, the request must also include the scheduled court date.

9.4.2.4.2.3
(07-18-2024)
**Reports of Foreign Bank
and Financial Accounts
(FBAR)**

- (1) The FBAR, Financial Crimes Enforcement Network (FinCEN) Form 114 is used by individuals, partnerships, trusts, or corporations having a financial interest in or authority, signatory or otherwise, over one or more bank accounts, securities accounts, or other financial accounts in a foreign country, when such account(s) have an aggregate value in excess of \$10,000. The form is required to be filed electronically through FinCEN's HYPERLINK "<https://bsae filing.fincen.treas.gov/main.html>" **BSA E-Filing System**. If you want to paper-file your FBAR, you must call FinCEN's Resource Center to request an exemption from e-filing. If you want someone to file your FBAR on your behalf, use HYPERLINK "<https://www.fincen.gov/sites/default/files/shared/FBARE-FileAuth114aRecordSP.pdf>" **FinCEN Report 114a, Record of Authorization to Electronically File FBARs**, to authorize that person to do so.
- (2) The TECS foreign bank account files contain a record of entities who have submitted FBARs. If a TECS query results in a positive response, the name, address, SSN or EIN of the subject, and a microfiche number will be received.
- (3) FBAR Contact Information:
 - a. IRS FBAR Hotline offers help for FBAR filing requirements and filing methods:
If calling from inside the United States **866-270-0733** available Monday - Friday, 8 a.m. to 4:30 p.m. EST.
If calling from outside the United States **313-234-6146** available Monday - Friday, 8 a.m. to 4:30 p.m. EST.
 - b. FinCEN's BSA E-Filing Help Desk offers help for technical questions at <https://www.fincen.gov/technical-help-0>.

- c. FinCEN's Resource Center offers help for E-filing exemptions to allow FBAR paper filing and questions about BSA regulations at <https://www.fincen.gov/regulatory-help>.

9.4.2.4.2.4
(08-09-2004)

**Other Records
Accessible Through
TECS**

- (1) Other records accessible through TECS include the NCIC and the NLETS.

9.4.2.4.2.4.1
(08-09-2004)

**The National Crime
Information Center
(NCIC)**

- (1) The NCIC is operated by the FBI and contains records on:
 - a. Wanted persons and missing persons,
 - b. Criminal history,
 - c. Stolen and (felony) non-stolen vehicles,
 - d. Stolen license plates,
 - e. Stolen articles,
 - f. Stolen securities,
 - g. Stolen boats,
 - h. Stolen guns.

9.4.2.4.2.4.2
(08-09-2004)

**The National Law
Enforcement
Telecommunication
System (NLETS)**

- (1) The NLETS links the law enforcement agencies across the United States. The NLETS can be used to obtain:
 - a. Drivers license information,
 - b. Motor vehicle registration information,
 - c. Boat registration information,
 - d. Snowmobile registration information.
- (2) The NLETS queries can be made from TECS for vehicle registration information (RQ). The following information can be used to make the query:
 - a. License plate number, year, and vehicle type,
 - b. Vehicle ID number, make, and year.
- (3) The NLETS queries can be made from TECS for drivers license information (DQ). The information needed for this type of query is:
 - a. Name, date of birth, and sex,
 - b. Drivers license number.
- (4) The NLETS queries can be made from TECS also for state criminal history record information (IQ). For the state criminal history query enter:
 - a. Name and social security number,
 - b. Name, date of birth, and sex.
- (5) To retrieve a full criminal history record (FQ) use the identification number from the IQ query.

9.4.2.4.2.4.3
(08-09-2004)

**State Driver's License
and Vehicle Registration**

- (1) All states will provide drivers license (DQ) and vehicle registration (RQ) information from motor vehicle files; however, the files of all states are not automated, therefore, there may be a delay in response time.

9.4.2.4.2.5
(08-09-2004)
Uses of TECS Queries

- (1) The TECS queries can be useful to CI when evaluating information or in an investigation.

9.4.2.4.2.5.1
(08-09-2004)
Information Evaluation

- (1) If information appears to have CI potential, the following queries could be useful:
 - a. TECS - To determine whether other agencies have ongoing or closed investigations or other information within CI's jurisdiction.
 - b. NCIC, State, and Local Criminal History Files - Requests for criminal history files will be processed only for law enforcement purposes. Therefore, this information cannot be disseminated to other IRS functions.
 - c. INTEL Files - To determine whether an entity or characteristic may be associated with a questionable refund scheme.

9.4.2.4.2.5.2
(08-09-2004)
Other Agency Investigations

- (1) TECS may be queried to determine if a subject is or has been investigated by another Treasury agency. TECS may be useful in establishing a contact point within another agency or IRS field office from which available information can be requested. This action will also serve to prevent jeopardizing ongoing investigations and duplication of efforts.
- (2) The TECS records often contain information, which may help to identify associates of the subject.
- (3) The TECS, through PAES, provides the Federal Aviation Administration (FAA) information regarding private aircraft, pilot, and passenger arrivals coming into the United States.
- (4) Data regarding land border and airport crossings by vehicles, passengers and pedestrians entering the United States can be retrieved on-line. The primary query history retrieval process also allows for the overnight retrieval (via printed reports) of records between one and six years old.
- (5) Demographic data is available through TECS at the five digit zip code level and at the Census Bureau Enumeration District (BGED) level.

9.4.2.4.2.5.3
(08-09-2004)
Other IRS Functions

- (1) Most TECS information is available to other IRS functions for use in investigations. The SAC, will designate a TECS coordinator to assist other operating divisions in securing information from TECS. All requests should be submitted on Form 5523, TECS Query Request and approved by the appropriate Supervisory Special Agent (SSA) or higher supervisory official. The approving official will submit all requests to the CI TECS coordinator. Emergency requests may be made by an SSA. All information from TECS must be stamped FOR OFFICIAL USE ONLY.
- (2) The NCIC, state and local criminal history files, are available through the Interstate Identification Index (III) (Criminal History Files). These files may be used only in the administration of criminal justice. Therefore, this information cannot be disseminated to other operating divisions.

9.4.2.4.2.5.4
(08-09-2004)

**Contacting Nonresident
Delinquent Taxpayer
Through TECS**

- (1) To help alleviate the compliance problem of collecting delinquent taxes from taxpayers who, because they reside outside the jurisdiction of US courts, are not subject to ordinary administrative and judicial collection procedures, the IRS has a contact program which involves entering the names of certain nonresident delinquent taxpayers in TECS. This will help the IRS to contact nonresident delinquent taxpayers who routinely travel to the United States for business, employment, or personal reasons.
- (2) The objective of the contact program is to improve tax administration and compliance by:
 - a. Collecting delinquent taxes,
 - b. Securing delinquent returns,
 - c. Identifying cases with criminal potential for referral to CI.
- (3) The success of the program depends on timely collection actions by the field offices.

9.4.2.4.2.5.5
(08-09-2004)

**TECS Information
Available to Other Law
Enforcement Agencies**

- (1) TECS information can be provided to other law enforcement officials provided the following rules are followed.
- (2) Third agency rule provides that information released to an agency cannot be released by that agency to another agency without the prior knowledge and consent of the agency that originally provided the information.
- (3) According to NCIC: Each criminal justice agency receiving an Interstate Identification Index (III) (Criminal History) response shall record any third party dissemination of any III response to another criminal justice agency or an individual within another criminal justice agency, or to anyone legally entitled to receive such information who is outside the original receiving agency. (A notation must be made in the case file.)

9.4.2.5
(08-02-2018)
Informants

- (1) Individuals who provide information and evidence to the Internal Revenue Service, law enforcement, and government agencies have traditionally been referred to as informants. The use of informants in generating investigations and developing leads is a critical part of the investigative process. There are a variety of individuals who provide information. Some desire to report suspicious or illegal activity while others want to actively assist with the development of evidence. Careful consideration and scrutiny must be applied when contemplating the use of informants who act at the direction of the IRS. Many informants will be utilized in a covert capacity by assisting in the monitoring of conversations and undercover operations. It is the responsibility of every SA and manager to evaluate these informants and their use prior to engaging in such activities. These individuals may act at the direction of the IRS and therefore it is vital the IRS put forth a diligent effort to determine who they are dealing with and the potential outcome of their actions.
- (2) This section addresses:
 - a. The classifications of informants,
 - b. The registration process for confidential informants,
 - c. The levels of approval required for authorizing the use of informants, and,
 - d. The handling of informants.

9.4.2.5.1
(03-15-2007)
**Classification of
Informants**

- (1) Informants are classified into three categories:
- a. Confidential Informant (CI),
 - b. Cooperating Witness (CW),
 - c. Source of Information (SOI).

9.4.2.5.1.1
(03-18-2024)
**Confidential Informants
(CI)**

- (1) A CI is any individual who:
- a. Provides useful and credible information to an SA regarding criminal activities, and from whom an SA expects or intends to obtain additional useful and credible information regarding such activities in the future;
 - b. Acts at the direction of the IRS; and
 - c. Has any one of the following characteristics:
 - Expects their identity to remain confidential,
 - Faces the potential of any type of retaliation,
 - Receives payment or other compensation for future information or services; an executed Memorandum of Understanding (MOU) is required,
 - Is a federal prisoner, or
 - Is a current or former member of the witness security program.
- (2) If deemed necessary, an SA or supervisor may classify an individual as a confidential informant for any other reason not listed that would require confidentiality.
- (3) The identity of the confidential informant is legally protected under the FOIA. Exemption (b)(7)(D) of the FOIA provides for the protection of records or information that can disclose the identity of a confidential source. The Supreme Court has ruled that confidentiality should not be applied automatically by law enforcement, but on a case by case basis. Consideration may include the understanding by the informant that the communications are confidential, threats of retaliation, prior retaliatory acts, or dangers faced by prison informants.
- (4) Confidentiality is not an assurance of complete anonymity or secrecy, but an assurance that the IRS will not disclose the cooperation of the CI, the information they provide, or their identity unless absolutely necessary.
- (5) To prevent the CI from testifying, the SA will put forth every effort to secure other evidence and witnesses in place of the CI.
- (6) The CIs will be handled in accordance with the following subsections.

9.4.2.5.1.2
(08-02-2018)
**Cooperating Witness
(CW)**

- (1) A CW is any individual who:
- a. Provides useful and credible information to an SA regarding criminal activities, and from whom an SA expects or intends to obtain additional useful and credible information regarding such activities in the future;
 - b. Acts at the direction of the IRS;
 - c. Does not expect their identity to be kept confidential; and
 - d. Has agreed to testify,
 - e. May receive payment for future information or assistance; an executed MOU is required.

- (2) Unlike a CI, there is no expectation of confidentiality with a cooperating witness. A CW is expected to testify so they must understand that their identity may eventually be disclosed pursuant to judicial or administrative proceedings.
- (3) All CWs will be handled in accordance with the following subsections.

9.4.2.5.1.3
(08-02-2018)

**Source of Information
(SOI)**

- (1) Sources of Information can be categorized into two types.
 - a. An individual who does not meet the definition of a CW or CI.
Note: (For Example - An individual who telephones or visits an IRS office to provide information but will not be directed in the future by the IRS to secure evidence.)
 - b. An individual who will be paid for information or evidence they secured independently and not at the direction of the IRS. This individual will provide no additional assistance or be expected to testify.
- (2) If an individual will be directed by the IRS to secure evidence (e.g., recording a monitored conversation) or provide assistance, the individual will be treated as a CI or CW.
- (3) An SOI may also be an individual who:
 - a. Provides useful and credible information to an SA regarding criminal activities, and from whom an SA expects or intends to obtain additional useful and credible information regarding such activities in the future;
 - b. Provides information to an SA solely as a result of legitimate routine access to information or records, such as a government agency or a legitimate business (e.g., financial institution), and not as a result of criminal association with persons of investigative interest to an SA; and
 - c. Provides such information in a manner consistent with applicable law.

Note:

For Example:

- An employee of a financial institution who provides information in compliance with the Bank Secrecy Act (BSA) is a SOI.
- Federal, state, and local law enforcement officials and other government officials, acting within the scope of their authority, who provide information to the IRS are considered SOIs. However, if such officials provide information regarding corruption allegations within their own agency, the officials may be considered a CW or a CI, depending on the circumstances.

9.4.2.5.1.4
(08-02-2018)
**Classification of
Subjects and
Defendants**

- (1) A subject of a criminal investigation or the defendant in a criminal proceeding who provides information to an SA will either be classified as a CI, CW, or SOI; whichever is more appropriate.

Note:

For Example:

- If the subject of an investigation cooperates, agrees to record conversations with coconspirators at the direction of the IRS, is expected to testify and does not require confidentiality, then the subject is a CW.
- If there is a concern of retaliation against a subject, they will be classified as a CI.
- If a defendant cooperates and simply provides testimony against co-conspirators, the individual is a SOI.

- (2) An SA should consult a Federal prosecutor and/or a criminal tax attorney prior to utilizing a subject of an investigation as a CI, CW, or SOI.

9.4.2.5.2
(03-18-2024)
**Report Requirements for
CIs**

- (1) An SA will be required to complete the following forms and documentation when handling a CI:
- a. Form 9830, Request for Control Number, will be submitted to Special Investigative Techniques (SIT).
 - b. Form 9831, Approval to Utilize a CI or CW, will be prepared to authorize the use of a CI.
 - c. Form 9832, Annual Suitability Review of a CI, will be completed every October to verify the CI's suitability, justify the continued use of the CI, and verify that the CI reported taxable payments made by the IRS during the previous tax year.
 - d. Form 9833, CI Identity Record, will be completed for each approved CI to document the identity of the CI.
 - e. Form 9834, Instructions to CI/CW, will be reviewed with each CI.
 - f. Form 9835, Receipt for Cash (if applicable), will be completed for each payment to a CI.
 - g. MOU, if the CI will receive payments during a non-title 26 investigation.
 - h. Record of Deactivation.
- (2) Every January a memorandum will be prepared to document that a paid CI was advised of the total amount of taxable payments made by the IRS during the preceding tax year.

9.4.2.5.3
(08-02-2018)
**Report Requirements for
CWs**

- (1) An SA will be required to complete the following reports when handling a CW:
- a. Form 9831, Approval to Utilize a CI or CW, will be prepared to authorize the use of a CW.
 - b. Form 9832, Annual Suitability Review of a CI/CW is required if payments are made to a CW. Form 9832 will be completed every October to verify the CW's suitability, justify the continued use of the CW, and verify that the CW reported taxable payments made by the IRS during the previous tax year.

- c. Form 9834, Instructions to CI/CW, will be reviewed with each CW.
 - d. Form 9835, Receipt for Cash (if applicable), will be completed for each payment to a CW.
 - e. MOU if the CW will receive payments during a non-Title 26 investigation.
- (2) Copies of all required forms will be maintained in the investigative file for which the CW is associated and providing assistance.

9.4.2.5.4
(08-02-2018)

**Registration and
Handling of CIs and
CWs**

- (1) SAs are required to register, also known as “number”, CI. Upon registration, the CI will be referred to by their assigned control number to maximize concealment of their identity. Registration will include the request for a control number, performing a suitability check to evaluate the CI, obtaining authorization from the proper level of management, and providing instructions to the CI. Additionally, periodic reviews of the CI’s suitability will be performed. This process enables the SA to evaluate and monitor the CI’s credibility, reliability, criminal history, tax filing status, and other factors. The IRS must protect a CI’s identity and the information and cooperation from disclosure; therefore, it is important to maintain a thorough review and monitoring process.
- (2) Cooperating Witnesses are not issued control numbers since they have no expectation of confidentiality. Since the CW acts at the direction of the IRS, the SA must:
- Obtain authorization from the proper level of management,
 - Evaluate the credibility and reliability of the CW,
 - Instruct the CW as to what actions they may and may not take.
- (3) SAs will conduct an initial suitability review for CWs as required for CIs. If at any time it is determined that a factor meeting the classification of a CI develops (e.g., a threat to the CW), an SA must register the CW as a CI. If a CW receives payment, an annual suitability review, including tax compliance checks, is required.

9.4.2.5.4.1
(03-18-2024)

**Registering a CI – Form
9830**

- (1) Prior to seeking authorization to utilize a CI, an SA will obtain a control number from SE:CI:GO:SIT. A Form 9830 will be prepared and submitted to SIT via e-mail to ***CI-HQ-GO-SIT Filing**. In exigent circumstances an individual may be utilized as a CI prior to registration, however, verbal authorization is required, followed by the submission of Form 9830 no later than seven (7) calendar days after verbal authorization is granted.
- (2) SIT will conduct a search to determine if the CI has been or is being utilized currently by Criminal Investigation. If a conflict is identified, SIT will review the CI’s history and report their findings to the requesting SA.
- (3) SIT will provide the requesting agent a control number for the CI and at that point, the CI will be referenced by their control number. It is the responsibility of the SA to obtain the required authorization to utilize the CI, comply with the reporting requirements, and deactivate the CI, when appropriate, pursuant to the following subsections.

9.4.2.5.4.2

(08-02-2018)

Approval to Utilize a CI or CW - Form 9831

- (1) It is essential to evaluate the reliability and credibility of every CI/CW. Form 9831, Approval to Utilize a CI or CW, will be used to evaluate the individual's suitability to serve as a CI/CW. The SA will complete Form 9831 and forward it through management to the proper approving official. The approving official should consider, at a minimum, the following suitability factors to determine whether to authorize the use of the individual:
- a. The person's age.
 - b. The person's alien status.
 - c. Health of the CI/CW.
 - d. Criminal history (record checks need to be maintained).
 - e. The extent to which the IRS is ensuring that the information or assistance is limited to criminal matters.
 - f. The extent to which the person's information or assistance would be relevant to a present or potential investigation or prosecution and the importance of such investigation or prosecution.
 - g. The nature of any relationship between the CI and the subject or target of an existing or potential investigation or prosecution, including but not limited to a current or former spousal relationship or other family tie, and any current or former employment, business or financial relationship.
 - h. The person's motivation in providing information or assistance, including any consideration sought from the government for this assistance.
 - i. The extent to which the person's information or assistance can be corroborated.
 - j. The record of the IRS and the record of any other law enforcement agency regarding the person's prior or current service as a CI/CW, including, but not limited to, any information regarding whether the person was terminated as a CI/CW for cause.
 - k. The person's reliability and truthfulness.
 - l. The person's prior record as a witness or informant in any proceeding.
 - m. Whether the person is a substance abuser or has a history of substance abuse.
 - n. Whether the person is a relative of an employee of any law enforcement agency.
 - o. For Title 26 investigations - Whether the individual is a tax professional, including an attorney, accountant, return preparer, or enrolled agent. If so, a Criminal Tax Attorney must be contacted for advice on using this person and the following factors should be considered:
 - Whether the tax professional has a Power of Attorney (POA) from the potential subject,
 - Whether the tax professional currently has an agreement to work as an attorney for the potential subject,
 - Whether the tax professional is owed money by the potential subject,
 - Whether the potential subject is aware that they are under investigation,
 - Whether the subject has invoked the Fifth Amendment relative to the IRS investigation.
 - p. Title 26 investigations – The individual's tax filing and payment history, particularly any delinquencies (problems in this area do not necessarily preclude use of the informant; however, steps should be taken to correct any problems prior to the individual working with the IRS).
 - q. The risk of physical harm that may occur to the person or their immediate family or close associates as a result of providing information or assistance to the IRS.

- r. The risk that the person might adversely affect a present or potential investigation or prosecution.
 - s. Whether the person is a public official, law enforcement officer, union official, employee of a financial institution or school, member of the military services, a representative or affiliate of the media, or a party to, or in a position to be a party to, privileged communications (e.g., a member of the clergy, a physician, or a lawyer). If so, Criminal Tax must be consulted, as well as the assigned Federal prosecutor in a grand jury case.
 - t. Whether the person is reasonably believed to be the subject or target of a pending criminal investigation, is under arrest, or has been charged in a pending prosecution.
 - u. Whether the person is reasonably believed to pose a danger to the public or other criminal threat, or poses a risk of flight.
- (2) Although not required, the use of a polygraph to test the individual's credibility should be considered by the approving official.
 - (3) Verbal approval to authorize the use of a CW/CI can be obtained in exigent circumstances, but must be followed up with the Form 9831 no more than seven (7) calendar days from the day of verbal authorization.
 - (4) The approved Form 9831 will be placed in the control file for CIs (see subsection 9.4.2.5.5 on control file) or the investigative file for CWs.
 - (5) An index file maintained by the SAC in each field office to track CIs and CWs will be updated (see subsection 9.4.2.5.6 on index file).

9.4.2.5.4.3
(08-02-2018)

**Authorizing the Use of a
CI or CW**

- (1) The following subsections list the approval levels for CI/CWs.

9.4.2.5.4.4
(08-02-2018)

**Approval Level - Special
Agent in Charge (SAC)
or Director, Field
Operations**

- (1) The SAC may authorize the use of most CI/CWs except when any one of the following factors are present, in which case the Director, Field Operations is the approving official:
 - a. Risk of physical harm that may occur to the CI and/or the CI's immediate family or close associates as a result of assisting the IRS. There should be no CWs in this category. If a CW is at risk of physical harm, they should be registered as a CI.
 - b. Risk that the CI/CW's activities may adversely affect another investigation or potential prosecution.
 - c. The CI/CW is a public official, law enforcement officer, member of the military services, a representative of the news media, or potentially a party to privileged communications (e.g., a member of the clergy, physician, a lawyer or certain experts retained by a lawyer). Criminal Tax and the Federal prosecutor, if assigned, need to be consulted and concurrence received.
 - d. It is believed that the individual is the subject of a pending criminal investigation, poses a danger to the public or other criminal threat, or poses a risk of flight.

9.4.2.5.4.5
(03-18-2024)
**Approval Level -
Director, Global
Financial Crimes &
Policy**

- (1) If any one of the following circumstances apply at the time of authorization; are identified at a later date; or subsequently develop, Director, Global Financial Crimes & Policy approval is required:

- a. The CI/CW is a foreign national. (A foreign national is defined as any individual who is not a United States citizen.)
- b. The CI/CW is to obtain information from a foreign country.
- c. The CI/CW will conduct foreign travel at the direction of IRS.

Note: If items (b) and (c) apply, concurrence from the Director, Global Financial Crimes & Policy is required.

- (2) The SAC of the field office will submit a memorandum through the Director, Field Operations to the Director, Global Financial Crimes & Policy requesting approval to use the CI/CW. The memorandum should be forwarded to the appropriate Undercover Program Manager (UPM) for processing. The memorandum should address the following factors:

- a. CI's number or in the case of a CW, their full legal name.
- b. Country of citizenship and current US immigration status (e.g., tourist visa, business visa, resident alien, if applicable).
- c. Employment position currently held by the CI/CW (e.g., foreign government official or bank official).
- d. Pertinent background information such as criminal record, associates, and employment history.
- e. Reliability of CI/CW.
- f. Criminal violations the CI/CW is providing information about, approximate dollar amounts of the violations, and years under investigation
- g. Detailed statement explaining the background of the investigation, what information the CI/CW's participation can provide, how the CI/CW will obtain the information, why the information is needed, and any other pertinent facts.
- h. If the CI/CW is obtaining information from a foreign country, identify country, the nature of the information, and how the CI/CW will obtain the information.
- i. If foreign travel is involved, detail the country or countries to be visited, a complete itinerary, and a description of the circumstances that require the CI/CW to travel.
- j. Any preliminary consultation information obtained from International Operations via the appropriate country attaché.

- (3) Verbal authorization may be obtained in exigent circumstances followed by the written authorization no more than seven (7) calendar days from the date verbal authorization is granted.

9.4.2.5.4.6
(08-02-2018)
DOJ Approval Required

- (1) Consistent with DOJ requirements, approval by DOJ, Criminal Division, Office of Enforcement Operations (OEO) is required for:
- a. Use of Federal prisoners or individuals under the physical control of the United States Marshals Service or Bureau of Prisons as informants, (see subsection 9.4.2.5.13).
 - b. Use of current or former participants in the Federal Witness Security Program as informants, (see subsection 9.4.2.5.12).
 - c. Use of informants to engage in the warrantless interception of certain sensitive categories of verbal communications as specified by the

Attorney General, (see IRM 9.4.7, Consensual Monitoring). Such categories include members of congress, Federal judges, governors, and diplomats, or someone in custody of the Marshal's Service or Bureau of Prisons, etc.

9.4.2.5.4.7
(08-02-2018)

**Federal Probationers,
Parolees, Detainees, or
Supervised Releasees**

- (1) The United States Parole Commission requires that Federal probationers, parolees, detainees and supervised releasees agree in writing not to act as informants or in other similar capacities for a law enforcement agency. However, exceptions may be granted on a case by case basis.
- (2) If an SA desires to utilize one of these types of individuals as a confidential informant or cooperating witness, the IRS must obtain the permission of a federal probation, parole, or supervised release official with the authority to grant such permission, and this permission shall be documented. If such permission is denied or it is inappropriate for operational reasons to contact the appropriate federal official, the IRS may seek to obtain authorization for the use of such individual from the court that is responsible for the individuals' probation, parole, or supervised release provide that the IRS first consults with Criminal Tax and/or the United States Attorney's Office.

9.4.2.5.4.8
(08-02-2018)

**Annual Suitability
Review of a CI – Form
9832**

- (1) In October of each year an annual suitability review will be performed for all open CIs. The controlling SA will complete Form 9832 to evaluate the suitability and justification to continue the use of the CI.
- (2) During this review, the SA will determine that the CI reported all taxable payments received in the previous tax year. In the event that the suitability review results in a determination that the CI did not report the payments as required, the IRS may utilize this information to discontinue the CI's relationship with the government and, in so doing, may disclose the reason for discontinuing the relationship to other government agencies associated with the investigation, including the United States Attorney's Office. In Non-Title 26 investigations where taxable payments were made to a CI who is required to file a tax return, the SA should ensure that "Consent to Disclosure of Tax Information" (Consent Form), which is attached to a Form 9835, was signed by the CI.
- (3) If the review of the CI's tax account and/or tax return identifies issues of possible noncompliance the CI should be contacted. The controlling SA will attempt to resolve the matter and advise the CI of the proper income tax reporting treatment for the particular issue. This meeting and advisement will be documented and filed in the CI's control file. Subsequent IDRS research will be conducted to ensure the CI has filed an amended or corrected return.
- (4) If the CI still fails to comply with their Federal income tax obligations, the CI will be deactivated for cause and must not be used again. An Information Report Referral, Form 3949, will be prepared and forwarded for civil or criminal action. The narrative section should simply state that the individual received a taxable payment, refer to the amount received from the IRS, and generally describe the area of noncompliance. While the CI's name shall be reported, the narrative should not disclose the nature of the relationship or the services performed on behalf of Criminal Investigation.

- (5) If any other adverse findings are uncovered pursuant to this suitability review, they should be reviewed to determine whether deactivation is warranted. If it is recommended that the CI be deactivated for any cause, the deactivation procedures will be followed.
- (6) The Form 9832 will be forwarded to the SAC for approval to continue the use of or deactivate the CI.
- (7) The Form 9832 and signed consent (if prepared) will be placed in the CI's control file.

9.4.2.5.4.8.1
(08-02-2018)
**Annual Suitability
Review of Paid CWs -
Form 9832**

- (1) In October of each year an annual suitability review will be performed for all cooperating witnesses who received payment for information or activity performed at the direction of IRS-CI during the previous fiscal year. The controlling SA will complete Form 9832 to evaluate the suitability and justification to continue the use of the CW.
- (2) During this review, the SA will determine whether the CW reported all taxable payments received in the previous tax year. In the event the suitability review results in a determination that the CW did not report the payments as required, the IRS may utilize this information to discontinue the CW's relationship with the government and, in so doing, may disclose the reason for discontinuing the relationship to other government agencies associated with the investigation, including the United States Attorney's Office. In **Non-Title 26** investigations where taxable payments were made to a CW who is required to file a tax return, the SA must ensure that a "Consent to Disclosure of Tax Information" (Consent) is executed by the CW.
- (3) If the review of the CW's tax account and/or tax return identifies potential non-compliance, the controlling SA must contact the CW and attempt to resolve the matter. The SA will advise the CW of the proper income tax reporting requirement. The advisement must be documented and filed in the CW's control file. Subsequent IDRS research will be conducted to ensure the CW reports the income.
- (4) If the CW still fails to comply with their Federal income tax obligations, the SA must consult with CT Counsel or the Assistant United States Attorney. The CW may be deactivated for cause and an Information Report Referral, Form 3949, will be prepared and forwarded for civil or criminal action. The narrative section should simply state that the individual received a taxable payment, refer to the amount received from the IRS, and generally describe the area of noncompliance. While the CW's name shall be reported, the narrative should not disclose the nature of the relationship or the services performed on behalf of Criminal Investigation.
- (5) Any other adverse findings uncovered pursuant to this suitability review, should be reviewed to determine whether deactivation is warranted.
- (6) The Form 9832 will be forwarded to the SAC for approval to continue the use of or deactivate the CW.
- (7) The Form 9832 and signed consent (if prepared) will be placed in the CW's control file and the investigative file.

9.4.2.5.4.9
(08-02-2018)
**Form 9833, CI Identity
Record**

- (1) After authorization to utilize the CI is granted, the controlling SA will prepare Form 9833, CI Identity Record, and obtain a photograph of the CI.
- (2) This form must be prepared manually as it contains the CI's personal information. No electronic version will be prepared
- (3) SAs should also obtain fingerprints for identification purposes.
- (4) The Form 9833, photograph, and fingerprints will be filed in the control file.

9.4.2.5.4.10
(08-02-2018)
**Form 9834, Instructions
to CI or CW**

- (1) SAs will fully debrief the CI/CW concerning their knowledge of criminal or unlawful activities. SAs should always make every effort to elicit all facts known by the CI/CW at the initial contact.
- (2) SAs must avoid conveying any confidential investigative information to a CI/CW (e.g., information relating to undercover activity, surveillance, search warrants, or the identity of other actual or potential informants), other than necessary for operational reasons.
- (3) The SAs will advise the CI/CW that any information submitted by concerning violations not under the IRS' jurisdiction will be furnished to the appropriate enforcement agency in accordance with IRS procedures, (See IRM 9.3.1, Disclosure, and Chapter 11.3, Disclosure of Official Information manuals).
- (4) Prior to utilizing a CI/CW, the controlling SA, in the presence of the backup agent or other law enforcement officer, will review the applicable information on Form 9834 with the CI/CW, which covers the following:
 - a. The information provided by the CI/CW to the SA must be truthful.
 - b. The CI/CW must abide by the instructions of the SA and may not represent themselves as an employee of the IRS.
 - c. The CI/CW's assistance and the information provided are entirely voluntary.
 - d. The SA cannot promise or agree to any immunity from prosecution or other consideration by a Federal prosecutor's office or a court in exchange for the CI/CW's cooperation, since the decision to confer any such benefit lies within the exclusive discretion of the Federal prosecutor's office and the court. However, the SA will consider (but not necessarily act upon) a request by the CI/CW to advise the appropriate Federal prosecutor's office or court of the nature and extent of their assistance to the SA.
 - e. The CI/CW have not been authorized to engage in any criminal activity and have no immunity from prosecution for any unauthorized criminal activity.
 - f. The CI/CW will not tamper, intimidate, or entrap any witnesses, nor will they fabricate, alter, or destroy evidence.
 - g. The CI/CW will not utilize any unlawful techniques (e.g., breaking/entering; unauthorized electronic surveillance; opening/tampering with the mail, etc.)
 - h. The CI/CW may not enter into any contract or incur any obligation on behalf of the United States Government, except as specifically instructed and approved by the IRS. The CI/CW is not an employee of the US Government and must not take any independent action on behalf of the US Government.

- i. The SA cannot guarantee any rewards, payments, or other compensation [if applicable]. The CI/CW must be advised of the IRS reward policy and procedures, and the use of Form 211, Application and Public Voucher for Reward for Original Information.
 - j. The CI/CW were advised that any information they submit concerning non-tax violations of Federal, state, or local criminal laws will be furnished to the appropriate enforcement agency.
 - k. No promises or commitments can be made, except by the Immigration and Naturalization Service, regarding the alien status of any person or the right of any person to enter or remain in the United States. This instruction should be provided if there is any apparent issue of immigration status that relates to the CI/CW.
 - l. For CIs, the United States government will strive to protect a CI's identity, but cannot guarantee that it will not be divulged. The IRS will not disclose the cooperation, identity or information unless absolutely necessary (or under the terms of a separate MOU, if applicable).
 - m. In the event the CI/CW receives any rewards, payments, or other compensation from the IRS, the CI/CW is liable for any taxes that may be owed. Payments should not be construed as an employer/employee relationship between the CI/CW and the IRS.
 - n. For CWs, they will be expected to testify in any legal proceedings, their identity may be disclosed, and there is no expectation of confidentiality on the part of the CW.
- (5) The content and meaning of each of the foregoing instructional points must be clearly conveyed to the CI/CW. Immediately after these instructions have been given, the agent shall require the CI/CW to acknowledge their receipt and understanding of the instructions by initialing each applicable instruction on the Form 9834. The agent and another law enforcement official shall document that the instructions were reviewed with the CI/CW and that the CI/CW acknowledged the instructions and their understanding of them by signing Form 9834.
 - (6) If the CI/CW refuses to initial the Form 9834 or there is an operational reason preventing the CI/CW from initialing Form 9834, the agent and the other law enforcement official shall document that the instructions were read verbatim to the CI/CW and that the CI/CW orally acknowledged the instructions.
 - (7) Form 9834 instructions and documentation procedures shall be repeated when it appears necessary or prudent to do so.
 - (8) Form 9834 will be filed in the control file for a CI or the case file for a CW.

9.4.2.5.4.11
(08-02-2018)
Form 9835, Receipt for Cash

- (1) Form 9835, Receipt for Cash, will be completed when a payment is made to a CI/CW or any other individual receiving payment.
- (2) Form 9835 will be filed in the control file for CI and the investigative case file and index file for CWs.

9.4.2.5.4.12
(08-02-2018)
Deactivation of CI

- (1) When a CI no longer provides information or assistance to the IRS, the individual should be deactivated. The IRS may also terminate the relationship for cause if the CI engages in conduct that violates the individual's agreement with the IRS. In either case, appropriate notification documented in writing and witnessed by two SAs shall be made if the CI can reasonably be located. If the CI cannot be located, efforts to locate the informant shall be documented.

- (2) When a CI is deactivated, SIT will be notified via an e-mail through the SAC. This e-mail needs to be forwarded to *CI-HQ-SIT-Confidential Informants. The e-mail must include the control number, date of deactivation, how the CI was notified, who advised the CI and the reason for deactivation.

9.4.2.5.4.12.1
(08-02-2018)

Deactivation of CW

- (1) When a CW no longer provides information or assistance to the IRS, the investigative file should be documented. The IRS may also terminate the relationship for cause if the CW engages in conduct that violates the individual's agreement with the IRS. In either case, notification should be documented in writing, witnessed by two SAs, and reviewed with the CW, if they can reasonably be located. If the CW cannot be located, efforts to locate the CW shall be documented.
- (2) The deactivation documentation should also be filed in the field office CW index file.
- (3) Cooperating Witness' are not issued control numbers or monitored by SIT. Therefore, SIT notification is unnecessary when deactivating CW's.

9.4.2.5.4.13
(08-02-2018)

Advise ment of Taxable Income

- (1) Every January CIs/CWs must be advised of the total amount of taxable payments made to them in the previous tax year. The SACs will direct the imprest fund cashiers to summarize the payments made to each CI or CW (SOC 9101 expense) and advise the controlling SAs of these amounts. SAs will contact the CIs/CWs and advise them of the total taxable amount paid and document the contact in a memorandum of contact. This memorandum will be placed in the CI's control file or field office's CW index file and the investigative file in the case of a CW. A copy will be forwarded to ***CI-HQ-SIT-Confidential Informants**.

9.4.2.5.5
(08-02-2018)

Control File

- (1) The SAC will establish a control file for each approved CI.
- (2) The SAC will ensure that all CI identities are protected in accordance with IRM 10.2.15, Physical Security Program, Minimal Protection Standards. The records must be stored in a security container or security room.
- (3) The control file will contain:
 - a. A photograph of the CI and fingerprints,
 - b. The results of a criminal history check of the CI,
 - c. Form 9831, Approval to Utilize a CI or CW,
 - d. Form 9832, Annual Suitability Review of a CI/CW,
 - e. Form 9833, CI Identity Record,
 - f. Form 9834, Instructions to CI/CW,
 - g. Form 9835, Receipt for Cash,
 - h. Any promises or benefits, and the terms of such promises or benefits, that are given a CI by an SA or any other law enforcement agency, if available to the IRS,
 - i. Memorandums of Understanding, if applicable (non-Title 26 investigations only),
 - j. Deactivation documentation,
 - k. Memoranda advising CI of total taxable income during tax year,
 - l. Spreadsheet of all lifetime payments to the CI, including all payments made to the CI if they were under a different control number.

9.4.2.5.6
(08-02-2018)
**Index Files - CIs and
CWs**

- (1) The SAC will maintain an index file listing the CI's name, control number, approval date, current status of the CI (i.e., active or inactive), and the date of deactivation. This information will be filed in a security container or security room.
- (2) The SAC will also maintain an index file for all Cooperating Witnesses listing the CW's name and date of approval to utilize the CW.
- (3) The file will also contain:
 - a. MOU, if applicable,
 - b. Memoranda advising CW of total taxable income during tax year.

9.4.2.5.7
(03-15-2007)
SA Authority

- (1) An SA does not have any authority to make any promise or commitment that would prevent the government from prosecuting an individual for criminal activity. An SA must be cautious and avoid providing an informant with any false perception that the SA has such authority.

9.4.2.5.7.1
(08-02-2018)
**Responsibility of SAs
when Dealing with a CI
or CW**

- (1) To protect the integrity of the relationship with the CI/CW and to enhance security, two SAs will be assigned to control the CI/CW. The controlling agents will always be fair and truthful with a CI/CW, and should make no promises that cannot be fulfilled.
- (2) While controlling a CI/CW, SAs will not:
 - a. Make any promises of immunity or give the impression that the SA has the authority to do so.
 - b. Authorize the CI/CW to participate in an act that would be unlawful if conducted by a law enforcement officer.
 - c. Let a CI/CW determine the procedure to be used in the investigation or otherwise control the investigation.
 - d. Condone any violation of law in order for a CI/CW to obtain information. If a defendant can show that the CI/CW was acting under some arrangement with Federal agents, they will have a viable defense. Whenever there appears to be a possibility of entrapment or some other unlawful act by a CI/CW, they should be guided in a manner that will prevent the occurrence of such acts.
 - e. Maintain anything other than a professional relationship with the CI/CW based upon mutual respect. SAs should guard against the relationship becoming personal. An SA's ability to be objective is jeopardized if a personal relationship develops with the CI/CW.
 - f. Make any commitments for payment or protection to a CI/CW without proper authorization from the approving official as set forth in IRM 9.11.1, Fiscal and Budgetary Matters. Agreements made without authorization may become the personal responsibility of the maker.
 - g. Intervene on behalf of a CI/CW with the IRS or with any other Federal, state, or local agencies.
 - h. Offer to have the tax liability of a CI/CW compromised in exchange for information about another taxpayer. This prohibition includes, but is not limited to, agreeing to a reduction or elimination of the tax liability of an attorney, accountant, enrolled agent, or other return preparer in exchange for information about the client or such person. Questions in this area should be addressed to CT Counsel assigned to the SA's field office.
 - i. Engage in sexual or social relationships with any CI/CW.
 - j. Pay a source with personal funds.

- k. Interfere with, inappropriately influence, or impede any criminal investigation, arrest or prosecution of a CI/CW.
- l. Accept any gifts from a CI/CW.

9.4.2.5.8
(08-02-2018)

**Avoidance of Illegal Acts
or Violation of Rights**

- (1) The IRS will not condone unconstitutional or criminal acts by a CI/CW in gathering information for the IRS. Such behavior can jeopardize the investigation. In accordance with the completion of Form 9834, Instructions to CI or CW, all CI/CWs will be advised of their obligation not to commit illegal acts.
- (2) SAs cannot use or encourage a CI/CW to commit acts that the IRS cannot otherwise authorize its undercover agents to commit. Examples include:
 - a. Violations of criminal statutes and infringement upon the constitutional rights of any person by IRS personnel or by CIs/CWs are prohibited.
 - b. Directing a CI/CW to employ such techniques as illegal threats or assaults against any person, breaking and entry into another's premises without a search warrant, the illegal seizure of paper or other property, or the illegal interception of conversations.
 - c. However, SAs in the performance of their official duties can employ investigative techniques that appear to, but do not in fact, violate a state or local criminal statute (e.g., holding oneself out as a drug trafficker or displaying jewelry represented to be stolen).
 - d. Criminal Tax (CT) Counsel should always be consulted when questions exist as to the proper application of the law (federal, state, or local) to a given situation.

9.4.2.5.8.1
(08-02-2018)

**Information or Evidence
Obtained Illegally**

- (1) Evidence illegally obtained may be utilized by the IRS if the unlawful taking was by a CI/CW without the participation or collusion of IRS employees. The CI/CW will be advised that the IRS will no longer accept any further information of this nature.
- (2) In receiving unsolicited information for the first time from an informant, the IRS may accept the information and in accordance with its value, may pay for such information even if it may have been obtained illegally by the CI/CW. SAs should consult Criminal Tax for guidance. Once authorization is received to pay the informant, the IRM payment procedures must be followed.

9.4.2.5.8.2
(08-02-2018)

**When Violations of Law
Occur in Gathering
Information**

- (1) If a CI/CW presents illegally obtained information and it can be ascertained that the CI/CW has had previous contact with the IRS, either in connection with the matter at hand or other matters, the SAC will review the facts and circumstances surrounding the incident.
- (2) The SAC will review this information in an attempt to determine if an IRS employee, during a prior contact with the CI/CW, indicated or implied to the individual that illegal activities would be condoned by the IRS or would be beneficial to an IRS investigation.
- (3) The SAC will also seek a legal opinion from CT Counsel and the Federal prosecutor, if assigned.
- (4) In all instances where illegally obtained information is presented to the IRS by a CI/CW, they will be advised that the IRS will not accept any further information obtained in this manner. The controlling SAs will prepare a memorandum documenting that the CI/CW was so advised.

- (5) The SAC will determine whether appropriate law enforcement authorities should be advised. Notification, if deemed appropriate, will be in accordance with IRM 9.3.1, Disclosure and Chapter 11.3, Disclosure of Official Information manuals.
- (6) Consider terminating the use of the CI/CW and not utilizing the information obtained by the CI or leads derived from the information until authorized to do so by the Director, Global Financial Crimes and Policy.

9.4.2.5.8.3
(08-02-2018)
**Notification of Alleged
Violations by CI or CW**

- (1) The SAC will notify the Director, Field Operations, of the facts relating to alleged violations by CI/CW. The Director, Field Operations will notify the Director/Deputy Director, Global Financial Crimes & Policy via a detailed written report and through SIT. The information contained in the report will include, but is not limited to the following:
 - a. The facts and circumstances concerning the investigation with which the CI/CW was connected.
 - b. The facts and circumstances concerning the illegal act(s) of the CI/CW.
 - c. The action taken by IRS to disclose the illegal act(s) to the appropriate law enforcement authority, or the circumstances that led to the SAC's decision not to notify the appropriate law enforcement authority.
 - d. A description of the information obtained through the CI/CW's illegal act(s).
 - e. An assessment of the criminal potential of the investigation if the information obtained by the CI/CW is not used, and the SAC's opinion on whether the investigation should be closed or continued.
 - f. Any circumstances that, in the SAC's opinion, would justify continued use of the CI or the information obtained by the CI/CW.

9.4.2.5.8.4
(08-02-2018)
**Violations of Law
Involving Serious
Crimes**

- (1) For the purpose of this subsection, the term "serious crime" means any crime that is a felony under Federal or state law.
- (2) Whenever the IRS has knowledge that a CI/CW has acted outside the scope of their IRS assignment and committed a serious crime, the SAC shall make a determination whether to notify the appropriate law enforcement authorities in accordance with IRM 9.3.1, Disclosure and IRM 11.3, Disclosure of Official Information.
- (3) The SAC will notify the Director, Field Operations, by memorandum, of the facts and circumstances concerning the CI/CW's criminal violation, and provide a recommendation on reporting the violation and the continued use of the CI/CW.
- (4) In determining whether to notify appropriate law enforcement authorities of criminal activity by a CI/CW, the reviewing and/or approving officials, as appropriate, shall consider the following factors:
 - a. Seriousness of the crime in terms of danger to life and property
 - b. Degree of certainty of the information regarding the criminal activity
 - c. Whether the appropriate authorities already know of the criminal activity and the CI/CW's identity
 - d. Degree to which notification would endanger the life of the CI/CW or another person

9.4.2.5.9
(06-23-2025)

**Protection of a CI's
Identity**

- (1) SAs should only disclose the identity of a CI to authorized persons who have an official need to know the identity of the individual.
- (2) Written documents such as an affidavit, memorandum, etc., should not disclose the identity of the CI or the sex of the CI.
- (3) During an investigation, communications with the CI are based on the CI's trust that their identity will not be disclosed and that they will not be harmed physically, economically, or otherwise because of their action in furnishing information to the government.
- (4) The protection of a CI is absolutely essential in enforcement activities. However, there are certain judicial and administrative situations that require the disclosure of the CI's identity.
- (5) SAs will not divulge either the identity of the CI or the existence of a CI in the investigation to anyone other than authorized persons with an official need to know. Authorized persons include but are not limited to SSA; Assistant SAs in Charge; SAC; Directors, Field Operations; Director, Office of SIT; Director, Global Financial Crimes & Policy; and the Chief, IRS-CI.
- (6) To provide maximum security regarding their identity and existence, all possible attempts will be made to ensure that a CI will not be used as a witness, placed in a position where they might become a witness, or unnecessarily identified in court without their consent.
- (7) In order to avoid the conflict between preservation of a CI's anonymity and the possible disclosure of their identity during the investigation and prosecution, SAs should make a decision early in the investigation about the feasibility of developing other evidence to take the place of the CI's testimony at trial. If this is not feasible, the investigation should be closed.
- (8) Communications of a CI should not be attached to income tax returns, associated with work papers, or included in the exhibits submitted with a report.
- (9) The Federal prosecutor and their designee are required to maintain as confidential the identity of any CI and the information the CI has provided, unless obligated to disclose it by law or court order.
- (10) If an SA needs to provide Federal prosecutors with access to any CI information, they must return it to the SA at the conclusion of the case.
- (11) Employees have a continuing obligation after leaving employment with the IRS to maintain as confidential the identity of any CI and the information they provided.

9.4.2.5.9.1
(08-02-2018)

In the Courts

- (1) It is the duty of every citizen to communicate to their government any information which has relative to an offense against its laws. To encourage them in performing their duty, the courts have held such information to be confidential within the discretion of the government.
- (2) The courts, on the basis of public policy, will not compel or allow disclosure of a CI's identity without the consent of the government unless such information is useful evidence to vindicate the accused, lessens the risk of false testimony, or is essential to the proper disposition of the case.

- (3) Mere speculation as to the usefulness of the CI's testimony to the defendant is insufficient to justify disclosure of their identity. Instead, the defendant must indicate some concrete circumstances that might justify overcoming both public interest in encouraging the flow of information and the CI's private interest in their own safety.
- (4) Since the privilege lies with the government rather than the CI, the government may waive it. Further, the privilege is deemed waived if the CI is put on the witness stand.
- (5) Moreover, the Supreme Court has held that the government is not entitled to a presumption that all sources supplying information to the government in the course of a criminal investigation are confidential sources within the meaning of Exemption (b)(7)(D) of 5 USC 552, Freedom of Information Act (FOIA).
- (6) Instead, the Supreme Court held that a source should be deemed "confidential" only if the source furnished information with the understanding that the government would not divulge the communication except to the extent deemed necessary for law enforcement purposes.

9.4.2.5.9.2
(03-15-2007)
On the Witness Stand

- (1) If an SA, who has promised a CI that their identity would be kept confidential, is asked to disclose such identity on the witness stand and no objection to the question is made or sustained, they should not refuse to answer. Instead, the SA should state that they cannot disclose the information on the ground that it was a privileged communication to an officer of the government and that they are bound by instructions not to disclose such information.
- (2) They should maintain this position pending instructions from their supervisors and advice from the attorney for the government.
- (3) The SA's failure to disclose this information may have several results:
 - a. The court may, if it thinks that no harm is done to the defendant, accept the SA's position.
 - b. The court may dismiss the action.
 - c. The SA's supervisors may release them from their obligation.
 - d. If the SA persists in their refusal to answer, the court may find them in contempt.

9.4.2.5.9.3
(03-18-2024)
**Access to Name of an
Approved CI by the
Inspector General**

- (1) If the identity of a CI is needed by the TIGTA, Office of Audit, or Office of Investigations, the SAC will obtain approval through the Director, Field Operations from the Director, Global Financial Crimes & Policy prior to disclosing the information.

9.4.2.5.9.4
(08-02-2018)
**Certification of the
Imprest Fund**

- (1) TIGTA, Office of Audit reports on investigative imprest funds requirement to contain a certification that the fund was properly utilized. To issue such a certification, TIGTA, Office of Audit must conduct audit tests to verify the existences of paid CIs/CWs; that the CI/CW information was evaluated prior to payment, and that the quality of the information was commensurate with the amount of the payment.
- (2) To conduct such tests, TIGTA, Office of Audit must be given the true identity of a paid informant. Generally, such tests will be made only on random samples of informants.

- (3) In rare instances, the Chief, IRS-CI, will divulge the names of other confidential informants to TIGTA, Office of Audit when deemed necessary.

Note: The name of a CI is restricted to the TIGTA, Office of Audit supervisor conducting the audit and is not accessible to any other member of the TIGTA, Office of Audit staff. The name will not be contained in the TIGTA, Office of Audit report or working papers.

9.4.2.5.9.5
(08-02-2018)

TIGTA Contact of a CI or CW

- (1) In the event TIGTA management determines it is essential to contact a CI/CW to meet an audit or investigation objective, TIGTA, Office of Investigations personnel will make that contact.
- (2) TIGTA management will notify the Director, Field Operations of the intention to contact the CI/CW. In those instances where it is deemed inappropriate to notify the Director, Field Operations, TIGTA management will notify the Inspector General or their designee of this decision who will advise the Chief, IRS-CI, of TIGTA's intention to contact the CI/CW without notification to the Director, Field Operations.

9.4.2.5.9.6
(08-02-2018)

Documents of a Confidential Nature

- (1) Tax returns and other documents shown to a taxpayer or a witness in the course of an investigation, or returns or similar documents to be produced in court, must be reviewed by SAs prior to such disclosure to ensure that nothing is attached (such as a CI/CW communication) that might reveal the existence or identity of a confidential source of information.

9.4.2.5.9.7
(03-15-2007)

CIs or CWs Accompanying SAs

- (1) There are circumstances when SAs may find it necessary or desirable to have a CI/CW accompany them on an investigative contact or activity.

Note: (For Example -

The CI/CW might prove of value in identifying a witness or taxpayer, pinpointing a location, introducing an SA to a witness or potential CI/CW, or, in exceptional circumstances, attending a witness interview.)

- (2) In using a CI/CW for these and similar purposes, SAs must exercise extreme care to protect the CI/CW's identity, provide for the CI/CW's physical safety, and prevent unauthorized 26 USC 6103 disclosure of returns or return information, (see 9.3.1, Disclosure). In instances where 26 USC 6103 issues are involved, advice of a field office CT Counsel must be sought.
- (3) As a general rule, a CI/CW should not be present while SAs are conducting a witness interview. There are, however, exceptional circumstances when SAs may find it necessary or desirable to have a CI/CW accompany them on a witness interview (e.g., when the CI/CW's presence during the interview will make a reluctant witness feel more at ease). In this regard:
- a. A CI/CW's presence is permitted only when the witness requests the CI/CW's presence, or the witness expressly consents to the CI/CW's presence. This request or consent must be documented by the SAs in the memorandum of interview or other interview record.
 - b. Under no circumstances should a CI/CW be introduced as a Federal agent, nor should anything be said or done that would lead the witness to mistakenly believe that the CI/CW is a Federal agent, an IRS employee, or other government representative. Thus, it is very important that the

SAs, and not the CI/CW, question the witness and otherwise control the interview. If the CI/CW's assistance is needed during the interview, the CI/CW should write out the questions and give them to the SAs.

9.4.2.5.10
(03-18-2024)

Payments to Informants

- (1) Criminal Investigation employees must adhere to the following guidelines when involved with paying an informant:
 - a. When a CI/CW will not furnish information without payment, the SAs should first advise the individual of IRS reward procedures and the use of Form 211, Application for Reward for Original Information. If the individual does not wish to use these procedures, the SAs may find it necessary to purchase specific information. In these situations, the SAs should determine the value of the information and advise the individual that any agreement for payment is subject to approval by higher authorities.
 - b. When evaluating the evidence to determine a value, consideration should be given to whether the information would have been brought to IRS' attention from other sources, the information has significant tax administration implications, the information has any potential probative value, and the investigative time that was saved by obtaining the information in this manner.
 - c. Under no circumstances are IRS employees authorized to assure that a reward will be paid in any amount, to indicate the amount of probable recovery, or to confirm that a recovery was based upon the information submitted.
 - d. Any payments requested that may exceed the threshold established through the Form 211 procedures must be coordinated through the Global Financial Crimes & Policy, Financial Crimes Section in National Headquarters. Financial Crimes will consult Criminal Tax and General Legal Services to prepare a special agreement.
 - e. A MOU must be prepared for any CI or CW who will receive compensation for future services or information (e.g., salary, lump sum or random payments, or awards based on a percentage of forfeiture). This will be coordinated with SIT. Special Investigative Techniques will consult CT Counsel and General Legal Services to prepare a MOU.
 - f. Guidance for paying informants can be found in 9.11.1, Fiscal and Budgetary Matters.
- (2) Delegation Order No. 9-10 (Rev. 1), Authorization to Approve Confidential Expenditures, authorizes payments for information, as well as other expenses necessary for gathering information in an investigation. The required authorization levels are as follows:

More than \$100,000:	The Chief, Criminal Investigation or Deputy Chief of Criminal Investigation.
\$100,000 or less:	The Directors of Field Operations and/or the Director, Global Operations Policy and Support.
\$50,000 or less:	Senior Executive Service, Special Agent in Charge

\$25,000 or less:	Special Agents in Charge (GS-15) and the Director, Special Investigative Techniques. Authority is limited to payments to or on behalf of informants and other expenses necessary for gathering information and evidence in an investigation, witness protection and other matters approved by policy memos and IRM by higher authority.
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- (3) In Non-Title 26 investigations where taxable payments are made to a CI who is required to file a tax return a "Consent to Disclosure of Tax Information" (Consent), must be prepared to determine whether the CI reported all taxable payments made by the IRS during a specific calendar year. In order for the IRS to conduct such determinations in Non-Title 26 investigations, the CI is required to sign the Consent authorizing the IRS to access their tax information.
- (4) A consent form is required for each tax year and will be completed at the time the first payment is made in each new tax year.
- (5) The CI/CW must execute the consent form. If a CI refuses to sign their name to the consent form out of concern of potential disclosure of the CI's confidential relationship with the IRS, or because of another confidentiality concern, the CI may, instead, enter their registration number. Entering the CI's control number constitutes the CI's signature for purposes of the consent.

9.4.2.5.10.1
(03-15-2007)
Asset Sharing

- (1) Instructions concerning asset sharing that involve payments to or on behalf of a CI are contained in IRM Chapters 9.7, Asset Seizure and Forfeiture.

9.4.2.5.10.2
(03-18-2024)
**Whistleblower Informant
Claim for Award**

- (1) Instructions concerning awards for information submitted to the IRS are contained in IRM 25.2, Information and Whistleblower Awards.
- (2) A CI control number will be assigned to all individuals who provide information on or associated with a Form 211 Application for Original Information, pursuant to IRM 25.2.1.2, that result in any administrative or judicial actions related to a criminal investigation.
- (3) The controlling agent will indicate that the CI, filing a Form 211, Application for Award for Original Information, is a whistleblower when obtaining the control number from SIT.

9.4.2.5.10.2.1
(08-02-2018)
**Whistleblower
Numbering Procedures**

- (1) All whistleblowers will be numbered and handled as CIs per guidance found in this IRM section. This guidance includes the following:
 - a. Prepare Form 9830 - Request for Control Number- and e-mail to ***CI-HQ-SIT Filing**,
 - b. Prepare Form 9831 - Approval to Utilize a CI or CW,
 - c. Prepare Form 9833 - CI Identity Record,
 - d. Form 9834 - Instructions to CI or CW - advice the CI of IRS' informant policy in the presence of another SA.

- 9.4.2.5.10.2.1.1
(08-02-2018)
Whistleblower Annual Suitability
- (1) In October of each year an annual suitability review will be performed for all open CIs, including whistleblowers. The controlling SA will complete Form 9832 to evaluate the suitability and justification to continue the use of the CI/Whistleblower.
- 9.4.2.5.10.2.1.2
(03-18-2024)
Whistleblower Deactivation
- (1) All Whistleblowers will remain active until the criminal investigation is concluded and the whistleblower informant's assistance is no longer necessary.
- 9.4.2.5.11
(03-09-2012)
Management Review
- (1) Each fiscal year, the UPM or SIT analysts will review each field office's CI activity to ensure compliance with IRS procedures and current guidelines. The review should ensure that proper documentation exists in the registration files.
- 9.4.2.5.12
(08-02-2018)
Title V Witnesses – Witness Security Program
- (1) The DOJ, OEO maintains a continuing and residual relationship with a person who was enrolled in the Witness Security Program after they have been relocated. Because of this relationship, OEO requires that investigative agencies and attorneys observe certain restrictions in dealing with current or former participants with respect to new investigations.
- (2) Once an individual has been accepted into the Witness Security Program, neither the witness nor any individual relocated because of the witness' cooperation may be used as a CI, unless the IRS can justify to OEO that the use of the individual in such a role is essential to the investigation.
- (3) Similarly, without the consent of the OEO, neither the witness nor any individual relocated because of the witness' cooperation may be used as a witness in an investigation, other than the investigation for which the witness was placed in the program.
- (4) Requests for the production of a protected witness must be made through the sponsoring attorney or the Director, Global Financial Crimes & Policy, Attention: Witness Security Coordinator. The request should be made at least 10 working days in advance of the requested date. This request should be prepared for the SAC's signature and submitted through the Director, Field Operations. The request must include:
- Purpose of request,
 - Date needed,
 - Duration of appearance,
 - Names of persons to be present,
 - Name and telephone number of person to be contacted in the field office,
- (5) If, while working with a CI/CW, it is learned or suspected that the CI/CW was a Title V protected witness, the SAC will prepare a memorandum to be submitted through the Director, Field Operations to the Director, Global Financial Crimes & Policy, Attention: WSC. The memorandum will request contact with the OEO to determine whether the person was actually a protected person under the program and, if they were to obtain approval from the OEO to use this person in the IRS investigation.
- (6) The SAC should include in the memorandum a brief explanation as to the importance of this person to the investigation, whether it is anticipated that they

will be called as a witness before a grand jury or at a trial, and any other information the SAC feels should be brought to the attention of the OEO.

- (7) Until approval is obtained from the OEO, IRS will suspend its use of the individual as either a CI or witness. The use of a relocated witness by the IRS without the approval of the Director, OEO, could result in the witness(es) becoming the financial and physical responsibility of the IRS.

9.4.2.5.12.1
(08-02-2018)

After Request Approved

- (1) The Witness Security Coordinator (WSC) for the IRS will forward the request approved by the Director, Global Financial Crimes & Policy, to the OEO. The OEO will forward approved requests to the Witness Security Division, US Marshals Service, or to the Inmate Monitoring Section, Bureau of Prisons, as appropriate and will forward an approved copy to the WSC for dissemination to the field. All communication to the OEO must be made through the Headquarters' WSC.
- (2) Prosecutors and investigators are requested to conduct interviews in neutral sites which will substantially reduce the danger to the witness and assist with the economical deployment of US Marshals Service personnel.
- (3) If a witness must be brought into a dangerous area, it is the responsibility of the prosecutor and the investigative agents to ensure that maximum use is made of the witness' time and that every effort has been made to keep such productions cost-effective. In the interest of security and economy, the witness must be returned to the relocation area or place of incarceration as soon as possible.

9.4.2.5.12.2
(08-02-2018)

Contacting Protected Witnesses in a Federal Prison

- (1) Prior to contacting a protected witness who is an inmate at a Federal Correctional Institution under the jurisdiction of the Bureau of Prisons or under the custody of the US Marshals Service, it is necessary that approval be obtained from the OEO.
- (2) If it is learned that an incarcerated, protected witness may be in jeopardy, the Director, Global Financial Crimes & Policy, should be notified, so that they can refer the matter to the OEO whose responsibility it is to coordinate the matter with the Bureau of Prisons. Arrangements may then be made to move the prisoner to another facility to assure protection.

9.4.2.5.12.3
(08-02-2018)

Contacts by Protected Witnesses with IRS Employees

- (1) Occasionally, witnesses who have been provided protection by DOJ are faced with a situation where they believe their new identities may be in jeopardy because of the need to provide an IRS employee with information relating to their old identities.
- (2) In such situations, the witnesses have instructions to notify their contact point in the US Marshals Service who will notify the OEO. The OEO will notify IRS' contact point in CI, the WSC, who will be responsible for any coordination with the WSC's of the other operating divisions in order to resolve the matter in a manner that will protect the CI's identity as well as IRS's interest.
- (3) In addition, the above IRS procedures will be followed if, during the processing of a witness to be placed in Justice's Witness Security Program, the OEO determines that the witness has a IRS matter that should be resolved before the witness is relocated.

9.4.2.5.12.4
(08-02-2018)
**Required Justice
Reports When Using
Title V Witnesses In
Investigations**

- (1) The DOJ requires that IRS-CI provide them with a report of significant events and results in criminal investigations involving participation by a witness or CI who has been accepted into Justice's Witness Security Program.
- (2) A similar report is required by DOJ on IRS-CI investigations that involve the participation of an IRS protected witness or CI.
- (3) Reportable events include, but are not limited to, the following actions that may result from the participation or testimony of a protected witness or CI:
 - a. Executing a search warrant,
 - b. Electronic surveillance,
 - c. Arrest,
 - d. Grand jury indictment,
 - e. Complaint.
- (4) Reportable results include:
 - a. Guilty pleas,
 - b. Acquittals,
 - c. Convictions,
 - d. Sentencing,
 - e. Appeals.
- (5) If a Form 1327-A, Arrest Report is prepared or entries are made into the CIMIS for any of the above stated events, a copy of the Form 1327-A or an "Investigation Profile Report" from CIMIS will suffice for this reporting requirement, provided the form or the screen print is accompanied by a statement regarding the significance of the witness' or CI's participation in the event or result being reported.
- (6) The above report will be prepared for the signature of the SAC and submitted through the Director, Field Operations to the Chief, IRS-CI, Attention: Witness Security Coordinator. The report is due to the WSC within 10 work days after the last significant event.
- (7) Reports involving witnesses or CIs under Justice's Witness Security Program will be coordinated by WSC.

9.4.2.5.13
(08-02-2018)
Use of Federal Prisoners

- (1) A Federal prisoner is considered any person who is in the custody of the United States Marshal's Service (USMS) or the Bureau of Prisons (BOP), or is under the BOP's supervision, even if held at a local facility.
- (2) If the use of the Federal prisoner will result in the release or transfer of the Federal prisoner, or the Federal prisoner will be authorized to participate in illegal activity, or will participate in consensual monitoring, approval of the DOJ, OEO must be obtained.
- (3) When requesting the use of Federal prisoners, the SAC will prepare a Federal Prisoner Application and Appendices that will be forwarded through the Director, Field Operations to the Director, Global Financial Crimes & Policy; Attn: Witness Security Coordinator, SE:CI:GO:SIT. This form will include the following information:
 - a. Identification information of the prisoner including, name, sex, race, date of birth, social security number, place of birth, citizenship, BOP register number, FBI number, miscellaneous number.

- b. Current location of prisoner including, facility name, city and state.
- c. Agency which has custody or supervision of prisoner and under what authority.
- d. Charges, including specific statutes, for which the individual is being detained, whether sentenced/not sentenced, and the sentencing details including date
- e. A copy of the prisoner's arrest record/criminal history must be attached.
- f. The necessity of using the prisoner in the investigation including alternative investigative techniques which have been tried/considered and why these techniques have not worked or have not been tried.
- g. The name(s) and identification information of the target(s) of the investigation including their role in the crime or organization under investigation, their relationship/association with the prisoner and the principal criminal statute(s) involved.
- h. Whether the target(s) is/are aware of the prisoner's arrest or incarceration. If so, indicate the prisoner's cover story in order to safeguard the prisoner and the investigation.
- i. The details of the activity requested including, the role of the prisoner; the length of time needed; whether the prisoner will be released from custody of the USMS or BOP, and if so, into whose custody; whether the prisoner will be returned to the prison the same day or held elsewhere overnight, and if held elsewhere, provide that name, location and type of facility. Identify all judicial districts to which the prisoner will be transported. Provide details of the security measures planned to ensure the prisoner's safety, to limit risk to the public and to prevent escape, include the number of agents/officers to be assigned to the security detail including their agency affiliation; and the use of surveillance devices (body wire, video, etc.) and where they will be hidden. When other law enforcement agencies are participating in this activity, at least two IRS-CI SAs must be assigned and one of those agents must be with the prisoner at all times.
- j. Whether the individual is expected to be a witness.
- k. Whether a re-designation in custodial location is expected to be necessary during or upon completion of the investigative activity.
- l. Whether or not the prisoner is represented by counsel, and if so, whether counsel concurs with the prisoner's participation in this activity. Identify whether the prisoner is facing pending charges. (If the prisoner is facing pending charges and is not represented by counsel, the agency must indicate that the prisoner is voluntarily participating in the activity and does not wish to consult with an attorney).
- m. The name, judicial district and telephone number of the Federal prosecutor endorsing the requested activity.
- n. Acknowledgement that the Federal prosecutor has considered entrapment issues and foresees no problems.
- o. Acknowledgement that the Federal prosecutor has determined that the planned operation does not violate the Attorney General's "Contact with Represented Persons" guidelines with regard to either the prisoner, or any target(s), or other persons to be contacted during this operation and that any McDade issues (28 USC 530B) have been addressed.
- p. If a continuance is necessary, an interim progress report should be submitted. A detailed progress report should be submitted at the conclusion of the activity.
- q. If the prisoner is on writ status, sealed court order(s) must be obtained after the request has been approved.

- (4) Upon receipt of the form, the Witness Security Coordinator will promptly transmit the request to the OEO, Criminal Division, DOJ, where it will be coordinated with the Bureau of Prisons.
- (5) The OEO will advise the Witness Security Coordinator, of its decision which, in turn, will be promptly communicated to the requesting field office.
- (6) Within 45 days of the conclusion of the activity, the SAC will forward a Federal Prisoner After Action Report detailing the results of the activity, through the Director, Field Operations to the Director, Global Financial Crimes & Policy; Attn: Witness Security Coordinator.

9.4.2.5.13.1
(03-15-2007)
**United States Marshals
Service (USMS)
Assistance**

- (1) The USMS will be requested to provide assistance when the release or transfer of a Federal prisoner is required as it is their responsibility for safekeeping and transporting in Federal prisoners.

9.4.2.5.13.2
(03-15-2007)
**When USMS is Not
Available**

- (1) The USMS will be requested to provide assistance in requests involving Federal prisoners due to their responsibility for the safekeeping of Federal prisoners.
- (2) If such assistance is not provided by the USMS, enough SAs should be assigned to the custody responsibilities to provide the constant presence of at least two SAs.
- (3) A security plan should be developed for the entire period of the temporary custody of the prisoner to ensure the safekeeping of the prisoner and the safety of all. This security plan should provide for:
 - a. A personal search of each prisoner upon each occasion of taking custody,
 - b. No visits by other persons while the prisoner is in IRS custody, unless such visits facilitate the interrogation,
 - c. Return of the prisoner to a Federally approved custodial facility or the prisoner's usual place of confinement at the end of each day,
 - d. Adequate resources for constant, alert guarding of the prisoner if (c) is not possible,
 - e. Use of personal physical restraint (handcuffs and leg irons) whenever appropriate,
 - f. On extended periods of custody, an appropriate system of communication with supervisory personnel and periodic status reports to the SAC.
- (4) All personnel assisting with the custody and interrogation of a prisoner should be constantly aware that the prisoner's cooperation may be motivated by the desire to escape from custody.
- (5) If during the interview it becomes apparent that the prisoner may become the subject of a criminal investigation, the procedures for interviewing a person in custody should be followed.

9.4.2.5.13.3
(03-15-2007)

**State or Local Prisoners,
Probationers, Parolees
and Supervised
Releasees**

- (1) Prior to utilizing a state or local prisoner, probationer, parolee, or supervised releasee, the SAC shall determine if the utilization of that person in such capacity would violate the terms and conditions of the person's incarceration, probation, parole, or supervised release. If the SAC has reason to believe that utilization of the individual would violate such terms and conditions, prior to using the person, the IRS must obtain permission of the state or local prison, probation, parole, or supervised release official with the authority to grant such permission.
- (2) If the witness or informant is a non-Federal prisoner, the advice of the local CT Counsel should be sought as to the process for securing custody under governing state law.
- (3) State prisoners will be handled in the same manner consistent with the procedures outlined when the USMS is not available.

9.4.2.6
(08-10-2004)

**Treaties, Mutual
Assistance Laws,
Simultaneous
Investigation Programs,
and Agreements**

- (1) Information from foreign countries can be obtained through the following legal mechanisms:
 - a. Tax Treaties and Tax Information Exchange Agreements (TIEA),
 - b. Mutual Legal Assistance Treaties and Laws (MLAT),
 - c. Simultaneous Criminal Investigation Programs (SCIP),
 - d. Letters Rogatory.
- (2) Procedures for requesting information pursuant to these legal mechanisms are found in IRM 9.4.4, Requests for Information.

9.4.2.6.1
(03-18-2024)

**Tax Treaties and Tax
Information Exchange
Agreements (TIEA)**

- (1) Tax treaties (also known as conventions) and TIEAs are among the legal instruments that permit exchange of information with foreign countries. The Commissioner, Large Business and International (LB&I) is the delegated U.S. Competent Authority for all tax treaties and TIEAs. The information obtained from these agreements may be used in criminal or civil cases involving the assessment, collection or administration of the taxes covered by the applicable tax treaty or TIEA. Consult LB&I-Exchange of Information to determine whether evidence obtained through a tax treaty or TIEA can be used in connection with tax-related Title 31 charges for the non-disclosure of foreign financial accounts that are related to a violation of tax law. If evidence is also intended to be used for criminal charges not related to tax, it may be necessary to obtain it through another type of agreement/convention (such as a mutual legal assistance treaty) to ensure that the evidence can be used in connection with the non-tax-related charges. For additional information, refer to IRM 4.60.1.2 (Specific Exchange of Information Program). The full text of recently signed tax treaties and TIEAs to which the United States is a party is available on the Treasury Department website at <http://www.treasury.gov>. On the Policy Issues drop-down menu, select the Treaties and Tax Information Exchange Agreements link under the Tax Policy heading.
 - a. Prior to submitting Tax treaty or TIEA request, please utilize informal channels and/or reach out to the country's attaché.
 - b. The investigation must be an approved PI or SCI investigation.
- (2) Pursuant to a request under a tax treaty or TIEA, the requested authorities may request:

- a. Tax returns and return information, for example, to verify:
Filing Status,
Income/expenses/tax liability,
Citizenship/residency.
 - b. Bank and brokerage records (available under an SCI/GJ)
 - c. Business records.
 - d. Public records (e.g., birth, death and marriage records).
 - e. Witness interviews.
 - f. Property ownership information.
- (3) Tax treaty and TIEA request should be emailed to *CI-HQ-GO-IO EOI Requests.
- (4) The SCIP is a program implemented to facilitate exchanges of information under tax treaties and TIEAs in cases where there appear to be substantial tax violations in both the United States and another foreign country. Policy and procedures for using the SCIP to conduct criminal investigations are found in subsection 9.4.2.6.3.

9.4.2.6.2
(08-02-2018)
**Mutual Legal Assistance
Treaties and Laws
(MLATs)**

- (1) The United States currently has MLATs with a number of countries. The MLATs can be used to obtain information from a foreign country for only those US criminal violations listed in the MLAT. For additional information, refer to 4.60.1, Exchange of Information, (see Mutual Legal Assistance Treaty Program). To access the U.S. Department of State's list of treaties and other international agreements (including MLATs), select Treaties in Force from the Treaty Affairs section on the State Department website at <https://www.state.gov/s/l/treaty/tif/index.htm>.
- (2) These treaties provide a vehicle to obtain testimony and tangible evidence from each country. The treaties offer a wide range of assistance from the judicial and executive authorities of each country involved. Each treaty designates the Attorney General as the Competent Authority for the United States who must handle requests under the treaty and whose approval is necessary for all requests. The Attorney General has delegated these powers and duties to the Assistant Attorney General of the Criminal Division. The MLATs can be used for both grand jury and administrative investigations. In some agreements, criminal tax charges are not listed in the MLAT, requiring the use of another bilateral agreement discussed in this section, to request the information.
- (3) Pursuant to a request under an MLAT, the requested authorities may:
- a. Supply official records,
 - b. Locate persons,
 - c. Provide service of process,
 - d. Execute search and seizures of property,
 - e. Arrange for the appearance of witnesses or experts before the relevant judicial authority,
 - f. Secure extraditions,
 - g. Transfer accused persons to the United States,
 - h. Exchange relevant information relating to the laws, regulations, and international practices in criminal matters of the contracting state.
- (4) CT Counsel assigned to the field office will contact the DOJ, Office of International Affairs (OIA) concerning any potential requests for assistance pursuant

to a MLAT involving an administrative case. The formal request must be made via memorandum from the SAC, with concurrence of the Director, Field Operations, to the Executive Director, SE:CI:S:GO:IO who will then forward it to the DOJ, OIA attorney working with the field office. The Chief, CI, will coordinate requests with DOJ, OIA. Requests should contain the following items:

- a. The subject matter and the nature of the investigation or proceeding,
 - b. The principal need for the evidence or information sought,
 - c. The full name, place and date of birth, address, and any other available information, such as nationality, which may aid in the identification of person(s) who are the subjects of the investigation or proceeding,
 - d. The name, address, and nationality of the person whose testimony or statements are sought, and/or from whom documents, records, or articles of evidence are requested,
 - e. A description of the documents, records or articles of evidence to be produced or preserved, and of the manner in which they should be reproduced or authenticated.
- (5) The request, insofar as possible and to the extent necessary, shall also include:
- a. A description of the particular procedure to be followed, if any,
 - b. A statement as to whether sworn testimony or statements are required,
 - c. A description of the information, statement or testimony sought.
- (6) Grand Jury MLAT requests, made through the United States Attorney's Office to DOJ-OIA should send a copy of the request to the Direct, SE:CI:IO:IL&S to track the request.

9.4.2.6.3
(08-02-2018)
**Simultaneous Criminal
Investigation Program
(SCIP)**

- (1) The objectives of the SCIP are to:
 - a. Conduct investigations of individuals and/or companies involved in substantial tax violations in the United States and other foreign countries.
 - b. Eliminate the problems caused by taxpayers using the border to avoid production of records and reporting of income.
- (2) Currently there are working arrangements for the conduct of SCIP with Australia, Canada, France, Italy, Japan, Mexico and South Korea. The following procedures, which explain the Canadian SCIP, generally also apply to other countries with SCIP agreements.
- (3) The Commissioner, LB&I is designated by Delegation Order No. 4-12 (Rev. 3), Delegation to Act as "Competent Authority" Under Tax Treaties and Tax Information Exchange Agreements, as revised, to administer the program in the United States. For additional information, refer to IRM 4.60.1, Exchange of Information.

9.4.2.6.3.1
(03-09-2012)
**SCIP - Investigation
Selection**

- (1) A Field Office's SAC should only recommend investigations for the program that has the potential for substantial liability and that indicates the subject is committing violations in both countries.
- (2) The SAC will forward any investigations recommended for the program through the appropriate Director, Field Operations, to the Executive Director, SE:CI:S:GO:IO, (see Exhibit 9.4.2-1).

- (3) The Associate Director, SE:CI:S:GO:IO will review the proposed case. If it meets the criteria to be included in the SCIP, it will be forwarded by the Executive Director, SE:CI:S:GO:IO to the Deputy Commissioner, LB&I.
- (4) The Executive Director, SE:CI:S:GO:IO will inform the recommending field office, by memorandum, of the action taken and send an information copy to the Director, Field Operations.
- (5) If an investigation is not accepted for the program, it will be worked as a routine investigation. If additional facts are developed, the investigation may be submitted for reconsideration.
- (6) If an investigation is approved for the program, LB&I will transmit a letter to the Competent Authority requesting the foreign country's participation, (see Exhibit 9.4.2-1 Cont. (1)).
- (7) When the Competent Authority of the foreign country recommends an investigation for the program, the Executive Director, SE:CI:S:GO:IO will transmit a copy of the request to the appropriate SAC through the Director, Field Operations. The field office will evaluate the request within 60 calendar days and advise the Executive Director, SE:CI:S:GO:IO of its decision by memorandum routed through the Director, Field Operations.
- (8) If the field office decides to participate, LB&I will send a Competent Authority acceptance letter, (see Exhibit 9.4.2-1 Cont. (2)). If not, LB&I will notify the foreign country's Competent Authority.

9.4.2.6.3.2
(03-09-2012)
**Criminal Investigation
Program - Exchanging
Information**

- (1) Once competent authority letters have been exchanged and accepted, a Field Office's SAC will designate an SSA as the designated representative. The participating foreign country will also designate an investigation supervisor.
- (2) The appropriate IRS-CI country attache' will coordinate an initial meeting to plan the investigative activity. The meeting will be held in the country which originated the request unless a mutually agreeable alternative location is determined.
- (3) The Associate Director, SE:CI:S: GO:IO will provide a list to LB&I of individuals designated to participate in the initial and subsequent meetings. The list will identify the individuals by name, position, office, and security clearance. Names may be added or deleted as necessary. An LB&I employee, with Competent Authority will be present at all meetings with foreign officials.
- (4) Subsequent meetings will be arranged by the SSA and the designated investigation supervisor. The field office will notify the IRS-CI country attache' so the attache' may, at their option, participate.
- (5) Exchanges of information or documents must be made by the respective Competent Authorities. Information and documents to be exchanged will be transmitted by a brief letter describing the documents and prepared for LB&I's signature, (see Exhibit 9.4.2-1 Cont. (3)).
- (6) The IRS-CI designated representative will note each document exchanged and maintain it in the investigation file. Each such document will also note that the information contained therein was secured under the provision of an income tax treaty and that its use and disclosure must be governed by the provisions of the treaty.

- (7) Exchange of information is permissible in pre-indictment, as well as post-indictment investigations.
- (8) Information that may be exchanged includes:
 - a. Information related to the taxpayer, their companies, or named associates.
 - b. Information relating to specific transactions believed to involve the taxpayer, their companies, or named associates.
 - c. Title 31 information which is needed for tax administration, although requests for Forms 4789, Currency Transaction Reports, must be made on a specific name basis, since they do not fall within the routine information category of the present treaty.

9.4.2.6.3.3
(08-10-2004)
SCIP - Grand Juries

- (1) Grand juries can be used in simultaneous investigations either at the request of the IRS or the attorney for the government, subject to DOJ approval.
- (2) Information from a US grand jury may be furnished to the respective Competent Authority for tax administration purposes by way of a court order pursuant to Fed. R. Crim. P. 6(e). The treaty partner will be required to meet the requirements of showing a particular need for the information and that the information is sought preliminary to or in connection with a judicial proceeding.
- (3) If a US multi-agency grand jury uses information received under the auspices of the tax treaty in an indictment and/or at trial, the indictment must include tax charges and must show a nexus between the tax charges and any other violations.

9.4.2.6.3.4
(08-10-2004)
SCIP - Witness

- (1) The tax conventions with the respective SCIP countries contain no provisions requiring foreign witnesses to appear at trial. The resulting potential for trial problems should be evaluated both in making a request for a simultaneous investigation and during the investigation itself.
- (2) If arrangements cannot be made for a witness to appear at trial, Rule 15 depositions or Letters Rogatory may be used, (see IRM 9.4.2.6.4, Letters Rogatory).

9.4.2.6.3.5
(08-10-2004)
SCIP - Disposition of Investigations

- (1) Jeopardy or termination assessments, that include information furnished through the program, can be handled in the normal fashion. The appropriate Competent Authority must be notified before any such action is taken.
- (2) Either country may withdraw from a simultaneous investigation at any time by advising the other country of its intent to do so, (see IRM 9.5.14, Closing Procedures).
- (3) Prosecution reports are processed in the normal fashion, subject to any additional requirements, (see IRM 9.5.12, Processing Completed Criminal Investigation Reports).
- (4) Simultaneous indictments and/or filing of charges is preferred if circumstances permit, making close coordination by the designated investigation supervisor imperative.

9.4.2.6.3.6
(03-09-2012)
SCIP - Travel

- (1) All travelers on SCIP investigations must initially complete a continuous travel Form 1321, Authorization for Official Travel. Thereafter, International Operations will coordinate the processing with the Office of the Director, International (LB&I:TAAS) for authority to travel on a trip-by-trip basis, (see IRM 9.11.2, Domestic and Foreign Travel).

9.4.2.6.3.7
(08-10-2004)
SCIP - Disclosure and Publicity

- (1) The tax treaty contains a secrecy clause restricting disclosure of information exchanged pursuant to the treaty. Access to such information is governed by 26 USC 6103 and may be exempt from disclosure under 5 USC 552(b)(3) pursuant to (j)(2).
- (2) The competent authority should be alerted if any disclosure is contemplated.
- (3) While IRS-CI may disclose information obtained during a simultaneous investigation to other IRS personnel for tax administration purposes, they must inform the competent authority or the designated investigation supervisor of the intended use of the information.
- (4) Publicity in simultaneous or unilateral indictments should be handled in accordance with the procedures detailed in IRM 9.3.2, Publicity and Internal Communications.

9.4.2.6.4
(03-15-2007)
Letters Rogatory

- (1) If a bilateral agreement does not exist with a country, it may be possible to use a letters rogatory to request the information. A letters rogatory is a formal request from a US Federal court, before which an action is pending, to the court of the foreign country in which the information/evidence is located.
- (2) Normally, letters rogatory can only be used in a post-indictment or post-compliant stage of the investigation. However, the United Kingdom and Hong Kong's evidentiary rules permit courts to release evidence to foreign courts for criminal investigations that have been instituted. There also exists case law that recognizes a district court's authority to issue letters rogatory for criminal cases that have not yet been indicted. The SA will work with the attorney for the government to petition the court to issue any such letters rogatory.

9.4.2.7
(08-02-2018)
**Financial Investigations
National Database
Information Tracker**

- (1) RESERVED

9.4.2.8
(08-02-2018)
Terrorism Investigations

- (1) In addition to the traditional information sources available, there are unique resources available when conducting terrorist investigations.
- (2) Some of the information sources are listed below:
 - a. USA Patriot Act,
 - b. Automated Case Support (ACS).

9.4.2.8.1
(08-02-2018)
USA Patriot Act

- (1) The USA Patriot Act amended the Right to Financial Privacy Act, by giving law enforcement and intelligence agencies the ability to obtain international terrorism related records from financial institutions via written requests, rather than subpoenas or court orders, (see IRM 9.4.4, Requests for Information).

9.4.2.8.2
(03-15-2007)

**Automated Case
Support System (ACS)**

- (1) ACS is administered by the FBI. The system consists of electronic case files that contains investigative information including interviews. SAs with top secret security clearance and assigned to the Joint Terrorism Task Force (JTTF) have access to ACS.

Exhibit 9.4.2-1 (03-09-2012)

Simultaneous Criminal Investigation Program



Criminal Investigation

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date

MEMORANDUM FOR: Executive Director
Office of International Operations SE:CI:IO
Criminal Investigation

FROM: Special Agent in Charge
() Field Office
Criminal Investigation SE:CI:FO

SUBJECT: Proposed Investigation for Inclusion in the
Simultaneous Criminal Investigation Program (SCIP)
With (Country)

Name of Subject(s)
Address
SSN
CIMIS #

The above referenced investigation is hereby referred to you with the recommendation that it be included in the Simultaneous Criminal Investigation Program (SCIP) with (country).

The attached summary of investigation delineates the pertinent facts that, in our view, make this case appropriate for the program. The years under investigation are _____ through _____. We are currently proceeding using the () method of proof, therefore information relating to prior and subsequent tax years will also be relevant to exchange of information with (country).

Should the investigation be accepted for the program, Supervisory Special Agent _____ will be the designated manager for this case. Supervisory Special Agent _____'s telephone number is _____. Supervisory Special Agent _____ should be contacted if additional investigative information is needed in order to evaluate this proposal.

Special Agent in Charge
() Field Office

Attachments:
cc:

Exhibit 9.4.2-1 (Cont. 1) (03-09-2012)**Simultaneous Criminal Investigation Program**

DEPARTMENT OF THE TREASURY
Internal Revenue Service
Washington, DC 20224

Date

Large Business and
International Division

Foreign Tax Agency, Competent Authority
(Country)

Dear Mr./Mrs.:

The Internal Revenue Service - Criminal Investigation Division is investigating the tax liability of (name of subject or other entity) for the taxable years ____ through _____. This individual, during the taxable years involved, appears to have engaged in business activities directly or through subsidiaries and/or affiliates located in (Country) and the United States. We therefore propose the investigation for inclusion in the Simultaneous Criminal Investigation Program.

Pursuant to IRS's investigation of the tax liability of (name of subject) and for the purpose of our participation in the United States-(Country) Simultaneous Criminal Investigation Program, Supervisory Special Agent (_____) has been designated as my representative to have functional authority for directing the investigation of (name of subject or other entity). Upon your concurrence of this proposal, Supervisory Special Agent (_____) will arrange to meet with your designated representative to implement the simultaneous criminal investigation of (name of subject or other entity).

I request that you provide any information and documents at your agency's disposal or obtainable under your country's revenue laws concerning the tax liability of the above mentioned individual or related entities, as may be specified by my designee as being necessary for the investigation. This information is requested under the provision of the United States-(Country) Income Tax Convention and pursuant to the United States-(Country) Simultaneous Criminal Investigation Program.

If you have any questions regarding this proposal please contact me at (_____).

Sincerely,
Deputy Commissioner

Enclosures:
cc:

Exhibit 9.4.2-1 (Cont. 2) (03-09-2012)
Simultaneous Criminal Investigation Program

DEPARTMENT OF THE TREASURY
Internal Revenue Service
Washington, DC 20224

Date

Large Business and
International Division

Foreign Tax Agency, Competent Authority
(Country)

Dear Mr./Mrs.:

I am pleased to confirm acceptance of your agency's proposal to conduct a simultaneous criminal investigation of (name of subject or other entity) for the taxable years ____ through _____. This individual, during the taxable years involved, appears to have engaged in business activities directly or through subsidiaries and/or affiliates located in (Country) and the United States.

Pursuant to IRS's investigation of the tax liability of (name of subject) and for the purpose of our participation in the United States-(Country) Simultaneous Criminal Investigation Program, Supervisory Special Agent (_____) has been designated as my representative to have functional authority for directing the investigation of (name of subject or other entity). Supervisory Special Agent (_____) will arrange to meet with your designated representative to implement the simultaneous criminal investigation.

I request that you provide any information and documents at your agency's disposal or obtainable under your country's revenue laws concerning the tax liability of the above mentioned individual or related entities, as may be specified by my designee as being necessary for the investigation. This information is requested under the provision of the United States-(Country) Income Tax Convention and pursuant to the United States-(Country) Simultaneous Criminal Investigation Program.

If you have any questions regarding this proposal please contact me at (_____).

Sincerely,
Deputy Commissioner

Enclosures:
cc:

Exhibit 9.4.2-1 (Cont. 3) (03-09-2012)
Simultaneous Criminal Investigation Program



CRIMINAL INVESTIGATION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date

Foreign Tax Agency
Competent Authority
Address
(Country)

In Re: United States - (Country)
Simultaneous Criminal Investigation Program

Dear Mr./Mrs.:

Attached are the requested documents relating to (name of individual or other entity) pursuant to the simultaneous criminal investigation of (name of subject or other entity).

A summary of each document, as well as the documents themselves, are attached to this transmittal letter. Each document has been properly stamped indicating that this exchange is made under the authority of the tax treaty.

If you have any questions regarding this transmittal please contact (_____) Associate Director, International Operations at (_____).

Sincerely,

Executive Director, International
Operations

Attachments:

cc: